

MT LEGISLATIVE HISTORY

Chapter 744 1985

Bill (H) 295 S _____

Original bill & hist. ☒ C

H. Committee on Business & Labor

S. Committee on Judiciary

Hearing Date(s) Jan 30 ☒ C

Hearing Date(s) Apr 12 ☒ C

Feb 14 ☒ C

Apr 15 ☒ C

_____ C

_____ C

_____ C

_____ C

Date Out Feb 14 ☒ C

Apr 15 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

House Appropriations

Mar 25 ☒ C

Mar 30 ☒ C

HOUSE BILL NO. 295

INTRODUCED BY HARRINGTON, PAVLOVICH, MENAHAN, CHRISTIAENS,
MCCORMICK, KRUEGER, PECK, REAM, PISTORIA, GARCIA, HARP,
J. HAMMOND, HAND, BACHINI, VINCENT, HANSEN, LYNCH, JACOBSON,
STIMATZ, DRISCOLL

IN THE HOUSE

January 21, 1985	Introduced and referred to Committee on Business and Labor.
January 23, 1985	Fiscal Note requested.
January 25, 1985	Fiscal Note returned.
February 15, 1985	Committee recommend bill do pass as amended. Report adopted. Statement of Intent attached. Bill printed and placed on members' desks.
February 16, 1985	Second reading, do pass as amended. On motion, taken from engrossing and rereferred to Committee on Appropriations.
February 18, 1985	Correctly engrossed.
March 5, 1985	On motion, taken from Committee on Appropriations and rereferred to second reading.
March 9, 1985	Second reading, do pass as amended. Correctly engrossed. On motion, taken from engrossing and rereferred to Committee on Appropriations.

March 30, 1985

Committee recommend bill do pass. Report adopted.

Bill printed and placed on members' desks.

April 1, 1985

Second reading, do pass as amended.

Third reading, passed.

Transmitted to Senate.

IN THE SENATE

April 3, 1985

Introduced and referred to Committee on Judiciary.

April 15, 1985

Committee recommend bill be concurred in as amended. Report adopted.

April 18, 1985

Second reading, concurred in as amended.

April 19, 1985

Third reading, concurred in. Ayes, 44; Noes, 6.

Returned to House with amendments.

IN THE HOUSE

April 19, 1985

Received from Senate.

April 20, 1985

Second reading, pass consideration.

April 23, 1985

Second reading, amendments concurred in.

April 23, 1985

Third reading, amendments
concurred in.

Sent to enrolling.

Reported correctly enrolled.

1 *McBride* HOUSE BILL NO. *295*
 2 INTRODUCED BY *Stamington* *Tamara Mendhan*
 3 *KEUEBER* *Ream* *Harold* *B. Hand*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE *Basham*
 5 NEW MOTOR VEHICLE WARRANTY REMEDY LAW; INCREASING MINIMUM *Vincent*
 6 WARRANTY PERIODS; PROVIDING FOR REMEDIES, DISCLOSURES, AND *Spach*
 7 PENALTIES; CREATING AN ARBITRATION PROCEDURE; AMENDING *Spach*
 8 SECTIONS 61-4-501 THROUGH 61-4-503 AND 61-4-505 THROUGH *Spach*
 9 61-4-507, MCA; AND PROVIDING AN APPLICABILITY PROVISION." *Spach*
 10 *Drusell*

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 61-4-501, MCA, is amended to read:

13 "61-4-501. Definitions. For purposes of this part, the
 14 following definitions apply:

15 (1) "Collateral charge" means all governmental
 16 charges, including but not limited to sales tax, property
 17 tax, license and registration fees, and fees in lieu of tax.

18 (2) "Consumer" means the purchaser, other than for
 19 purposes of resale, of a motor vehicle that has not been
 20 brought into nonconformity as the result of abuse, neglect,
 21 or unauthorized modifications or alterations by the
 22 purchaser, any person to whom the motor vehicle is
 23 transferred during the duration of an express warranty
 24 applicable to the motor vehicle, or any other person
 25 entitled by the terms of the warranty to the benefits of its

1 provisions.

2 (3) "Department" means the department of commerce
 3 created in 2-15-1801.

4 (4) "Division" means the division of motor vehicles
 5 defined in 61-1-301.

6 (5) "Finance charge" means a finance charge as defined
 7 in 31-1-202, incurred by a consumer after he first reports a
 8 nonconformity to the manufacturer or agent and during any
 9 subsequent period when the vehicle is out of service by
 10 reason of repair related to the nonconformity.

11 (6) "Incidental damage" means incidental and
 12 consequential damage as defined in 30-2-715.

13 (7) "Motor vehicle" means a vehicle propelled by
 14 its own power, designed primarily to transport persons or
 15 property upon the public highways, and sold in this state.
 16 The term does not include a motor home as defined in
 17 61-1-130.

18 (8) "Reasonable allowance for use" is an amount
 19 directly attributable to use of the motor vehicle by the
 20 consumer and any previous consumers prior to the first
 21 written notice of the nonconformity to the manufacturer or
 22 its agent and during any subsequent period when the vehicle
 23 is not out of service because of nonconformity. The
 24 reasonable allowance for use shall be computed by
 25 multiplying the total contract price of the vehicle by a

fraction having as its denominator 100,000 and having as its numerator the number of miles that the vehicle traveled prior to the manufacturer's acceptance of its return.

(3)(9) "Warranty period" means the term of an express agreement or the period ending 1-year 2 years after the date of the original delivery to the consumer of a new motor vehicle, or during the first 18,000 miles of operation, whichever is earlier."

Section 2. Section 61-4-502, MCA, is amended to read:

"61-4-502. Warranty Notice -- warranty enforceable after warranty period -- when. (1) If a consumer notifies in writing the manufacturer or its agent during the warranty period that a new motor vehicle does not conform to all applicable express warranties, the repairs necessary to conform the new motor vehicle to the express warranties shall be made by or at the expense of the warrantor, regardless of the expiration of the warranty period after notification of nonconformity is given by the consumer.

(2) The warranty period of an express warranty is extended to equal the time that repair services are not available because of war or invasion or because of strike or fire, flood, or other natural disaster. The presumption provided herein may not apply against a manufacturer who has not received prior written notification from or on behalf of the consumer and has not had an opportunity to cure the

alleged defect.

(3) The manufacturer must clearly and conspicuously disclose to the consumer in the warranty or owner's manual that written notification of a nonconformity is required before a consumer may be eligible for a refund or replacement of the vehicle. The manufacturer must include with the warranty or owner's manual the name and address where the written notification must be sent."

Section 3. Section 61-4-503, MCA, is amended to read:

"61-4-503. Replacement for nonconformity to warranty.

(1) If after a reasonable number of attempts the manufacturer or its agent or authorized dealer is unable, during the warranty period, to conform the new motor vehicle to any applicable express warranty by repairing or correcting any defect or condition that substantially impairs the use and market value or safety of the motor vehicle to the consumer, the manufacturer shall replace it with a new motor vehicle of the same model and style and of equal value, unless for reasons of lack of availability such replacement is impossible, in which case the manufacturer shall replace it with a vehicle of comparable market value.

(2) As an alternative to replacement, the manufacturer may accept return of the new motor vehicle from the consumer upon refund to him of the full purchase price, excluding all sales taxes, license fees, registration fees, and any

1 ~~similar---governmental---charges~~ plus collateral charges,
 2 finance charges, and incidental damages, less a reasonable
 3 allowance for the consumer's use of the motor vehicle. The
 4 refund shall be paid to the consumer and to a lienholder, if
 5 any, in proportion to their interests. ~~A---reasonable~~
 6 ~~allowance--for-use-is-an-amount-directly-attributable-to-use~~
 7 ~~by-the-consumer-and-any--previous--consumers--prior--to--his~~
 8 ~~first---written---report---of---the---nonconformity--to--the~~
 9 ~~manufacturer-or-its-agent-and-during-any--subsequent--period~~
 10 ~~when---the---vehicle---is---not---out---of---service--because--of~~
 11 ~~nonconformity--"~~

12 Section 4. Section 61-4-505, MCA, is amended to read:
 13 "61-4-505. Dealer exemption -- liability to
 14 manufacturer. (1) Nothing in this part imposes any liability
 15 on a dealer or creates a cause of action by a consumer
 16 against a dealer under 61-4-503.

17 (2) A dealer is not liable to a manufacturer for any
 18 refunds or vehicle replacements in the absence of evidence
 19 indicating that repairs made by the dealer were carried out
 20 in a manner inconsistent with the manufacturer's
 21 instructions."

22 Section 5. Section 61-4-506, MCA, is amended to read:
 23 "61-4-506. Provisions nonexclusive -- applicability of
 24 UCC -- defenses. (1) The provisions of this part do not
 25 limit the rights or remedies available to a consumer under

1 any other law.

2 (2) All express and implied warranties arising from
 3 the sale of a new motor vehicle are subject to the
 4 provisions of Title 30, chapter 2, part 3.

5 (3) It is an affirmative defense to a claim brought
 6 under this part that an alleged nonconformity does not
 7 substantially impair the use, market value, or safety of the
 8 vehicle or that the nonconformity is the result of abuse,
 9 neglect, or unauthorized modification or alteration of a
 10 motor vehicle by the consumer."

11 Section 6. Section 61-4-507, MCA, is amended to read:
 12 "61-4-507. Exhaustion of remedies under federal law.
 13 The provisions of 61-4-503 are not applicable against a
 14 manufacturer who has established an informal dispute
 15 settlement procedure certified by the department to be in
 16 substantial compliance with the provisions of Title 16, Code
 17 of Federal Regulations, part 703, as those provisions read
 18 on October 1, 1983, unless the consumer has first resorted
 19 to that procedure without satisfaction."

20 NEW SECTION. Section 7. Manufacturer's dispute
 21 settlement procedure -- certification -- prohibited
 22 contents. (1) A manufacturer who has established an informal
 23 dispute settlement procedure under the provisions of Title
 24 16, Code of Federal Regulations, part 703 (16 CFR, part
 25 703), as those provisions read on October 1, 1983, shall

1 submit a copy of the procedure to the department. The
 2 department shall issue a certificate of approval to a
 3 manufacturer whose procedure complies in all respects with
 4 such federal regulations and subsection (2). The department
 5 shall report to the division all manufacturer's procedures
 6 certified. The department may issue subpoenas requiring the
 7 attendance of witnesses and the production of records,
 8 documents, or other evidence necessary to it in an
 9 investigation related to the certification of a
 10 manufacturer's informal dispute settlement procedure.

11 (2) A manufacturer's informal dispute settlement
 12 procedure may not include any practices that:

13 (a) delay a decision in any dispute beyond 60 days
 14 after the date on which the consumer initially resorts to
 15 the dispute settlement procedure;

16 (b) delay performance of remedies awarded in a
 17 settlement beyond 10 days after a decision, except that a
 18 manufacturer may have 30 days following the date of decision
 19 to replace a motor vehicle or make refund to the consumer as
 20 provided in 61-4-503;

21 (c) require the consumer to make the vehicle available
 22 for inspection by a manufacturer's representative more than
 23 once;

24 (d) require the consumer to make the vehicle available
 25 for repair of the same defect more than once unless upon the

1 consumer's furnishing proof of financial responsibility as
 2 provided in 61-6-301, he is provided with the loan of a
 3 reliable vehicle not more than 2 years old during the
 4 periods required for repair;

5 (e) fail to consider in decisions any remedies
 6 provided by this part; or

7 (f) require the consumer to take any action or assume
 8 any obligation not specifically authorized under the federal
 9 regulations referred to in subsection (1).

10 NEW SECTION. Section 8. Annual audit -- revocation or
 11 suspension of certification. (1) A manufacturer establishing
 12 an informal dispute resolution procedure shall file with the
 13 department a copy of the annual audit required under Title
 14 16, Code of Federal Regulations, part 703 (16 CFR, part
 15 703), as those provisions read on October 1, 1983, along
 16 with any additional information the department may require,
 17 including the number of refunds and replacements made by the
 18 manufacturer during the period audited.

19 (2) The department may, after notice and hearing as
 20 provided in Title 2, chapter 4, suspend or revoke the
 21 certification of a manufacturer's informal dispute
 22 resolution procedure upon a finding that the procedure is
 23 being used to injure consumers. The department shall notify
 24 the division of any revocation or suspension of a
 25 certification. The division may consider the revocation or

1 suspension in licensing manufacturers under Title 61,
2 chapter 4, part 2.

3 NEW SECTION. Section 9. Notice on resale of replaced
4 vehicle. A motor vehicle which is returned to the
5 manufacturer and which requires replacement or refund may
6 not be sold in the state without a clear and conspicuous
7 written disclosure of the fact that the vehicle was
8 returned. The division may prescribe by rule the form and
9 content of the disclosure statement and a procedure by which
10 the disclosure may be removed upon a determination that the
11 vehicle is no longer defective.

12 NEW SECTION. Section 10. Arbitration procedure. (1)
13 The department shall provide an independent forum and
14 arbitration procedure for the settlement of disputes between
15 consumers and manufacturers of motor vehicles that do not
16 conform to all applicable warranties under the provisions of
17 this part. The procedure must conform to Title 27, chapter
18 5.

19 (2) Except as provided in [section 16], a consumer
20 owning a motor vehicle that fails to conform to all
21 applicable warranties may bring a grievance before an
22 arbitration panel only if the manufacturer of the motor
23 vehicle has not established an informal dispute settlement
24 procedure which has been certified by the department under
25 [section 7].

1 NEW SECTION. Section 11. Composition of arbitration
2 panel. An arbitration panel hearing a grievance under this
3 part must consist of three members. One member must be
4 chosen by the consumer, one member must be chosen by the
5 manufacturer, and one member must be chosen by mutual
6 agreement of the parties. The department may maintain a list
7 of persons willing to serve on panels from which the third
8 member may be chosen.

9 NEW SECTION. Section 12. Implementation of
10 arbitration. (1) A consumer may initiate a request for
11 arbitration by filing a notice with the department. The
12 consumer shall file, on a form prescribed by the department,
13 any information considered relevant to the resolution of the
14 dispute and shall return the form, along with a \$50 filing
15 fee, within 5 days after receiving it. The complaint form
16 must offer the consumer the choice of presenting any
17 subsequent testimony orally or in writing, but not both.

18 (2) The department shall determine whether the
19 complaint alleges the violation of any applicable warranty
20 under this part. If the department determines that a
21 complaint does not allege a warranty violation, it must
22 refund the filing fee.

23 (3) Upon acceptance of a complaint, the department
24 shall notify the manufacturer of the filing of a request for
25 arbitration and shall obtain from the manufacturer, on a

form prescribed by the department, any information considered relevant to the resolution of the dispute. The manufacturer must return the form within 15 days of receipt, with a filing fee of \$250.

(4) Fees collected under this section shall be deposited in a special revenue fund for the use of the department in administering [this act].

NEW SECTION. Section 13. Role of department -- expert. (1) The department shall investigate, gather, and organize all information necessary for a fair and timely decision in each dispute. The department may, on behalf of the arbitration panel, issue subpoenas to compel the attendance of witnesses and the production of documents, papers, and records relevant to the dispute.

(2) If requested by the panel, the department shall forward a copy of all written testimony and documentary evidence to an independent technical expert certified by the national institute of automotive excellence. The expert shall review the material and be available to advise and consult with the panel. The expert shall sit as a nonvoting member of the panel whenever oral testimony is presented. The division may suggest an expert at the request of the department.

NEW SECTION. Section 14. Action by arbitration panel -- decision. (1) The arbitration panel shall, as

expeditiously as possible, but not later than 60 days after the department has accepted a complaint, render a fair decision based on the information gathered and disclose its findings and its reasoning to the parties.

(2) The decision shall provide appropriate remedies, including but not limited to:

(a) repair of the vehicle;

(b) replacement of the vehicle with an identical vehicle or a comparable vehicle acceptable to the consumer;

(c) refund as provided in 61-4-503(2);

(d) any other remedies available under the applicable warranties or 15 U.S.C. 2301 through 2312, as in effect on October 1, 1983; or

(e) reimbursement of expenses and costs to the prevailing party.

(3) The decision shall specify a date for performance and completion of all awarded remedies. The department shall contact the prevailing party within 10 working days after the date for performance to determine whether performance has occurred. The parties shall act in good faith in abiding by any decision. In addition, if the decision is not accepted, the parties shall follow the provisions of Title 27, chapter 5, part 3. If it is determined by the court that the appellant has acted without good cause in bringing an appeal of an award, the court, in its discretion, may grant

1 to the respondent his costs and reasonable attorney fees.

2 NEW SECTION. Section 15. Records of disputes. The
3 department shall maintain records of each dispute as it
4 determines, including an index of disputes by brand name and
5 model. The department shall, at intervals of no more than 6
6 months, compile and maintain statistics indicating the
7 record of compliance with arbitration decisions and the
8 number of refunds or replacements awarded. A copy of the
9 statistical summary must be filed with the division and must
10 be considered by it in determining the issuance of any
11 manufacturer license required under Title 61, chapter 4,
12 part 2.

13 NEW SECTION. Section 16. Nonconforming procedure --
14 arbitration de novo. A consumer injured by the operation of
15 any procedure that does not conform with procedures
16 established by a manufacturer pursuant to [section 7] and
17 the provisions of Title 16, Code of Federal Regulations,
18 part 703, as in effect on October 1, 1983, may appeal any
19 decision rendered as the result of such a procedure by
20 requesting arbitration de novo of the dispute by a
21 department panel. Filing procedures and fees for appeals
22 must be the same as those required in [sections 10 through
23 12]. The findings of the manufacturer's informal dispute
24 settlement procedure are admissible in evidence at the
25 department arbitration panel hearing and in any civil action

1 arising out of any warranty obligation or matter related to
2 the dispute.

3 NEW SECTION. Section 17. Display of notice. If a
4 manufacturer has not established an informal dispute
5 settlement procedure certified by the department as
6 complying with the requirements of [section 7], public
7 notice of the availability of the department's motor vehicle
8 arbitration procedure shall be prominently posted in the
9 place of business of each new car dealer licensed by the
10 division to engage in the sale of such manufacturer's new
11 motor vehicles. Display of the public notice must be a
12 condition of licensure under Title 61, chapter 4, part 2.
13 The department shall by rule prescribe the size, typeface,
14 form, and wording of the notice, which must include the
15 telephone number and address for requesting arbitration
16 services.

17 NEW SECTION. Section 18. Rulemaking. The department
18 may adopt rules to implement the provisions of this part.

19 NEW SECTION. Section 19. Penalty. A violation of any
20 provision of this part is an unfair or deceptive trade
21 practice under Title 30, chapter 14, part 2, and the
22 penalties provided in 30-14-224(1) apply.

23 NEW SECTION. Section 20. Applicability. This act
24 applies to automobiles sold on or after October 1, 1985.

25 NEW SECTION. Section 21. Severability. If a part of

1 this act is invalid, all valid parts that are severable from
2 the invalid part remain in effect. If a part of this act is
3 invalid in one or more of its applications, the part remains
4 in effect in all valid applications that are severable from
5 the invalid applications.

6 NEW SECTION. Section 22. Codification instruction.
7 Sections 7 through 19 are intended to be codified as an
8 integral part of Title 61, chapter 4, part 5, and the
9 provisions of Title 61, chapter 4, part 5, apply to sections
10 7 through 19.

11 NEW SECTION. Section 23. Coordination. If this act
12 and __Bill__ [LC 909] are both passed and approved,
13 including section 12 of this act providing for a special
14 revenue fund and the section of __Bill__ [LC 909] creating
15 an investigative account, the reference to "a special
16 revenue fund" in section 12 of this act must be changed to
17 "the investigative account" created in __Bill__ [LC 909].

-End-

In compliance with a written request received January 23, 19 85, there is hereby submitted a Fiscal Note for H.B. 295 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

H.B. 295 ("LEMON LAW II") revises new motor vehicle warranty remedy laws, establishes warranty periods and provides for state arbitration mechanism, consumer remedies, disclosures and penalties.

ASSUMPTIONS:

Assuming 10 complaints will be received in FY 86, and 20 complaints in FY 87, fees will generate \$3,000 and \$6,000 respectfully. It is assumed that the legal division will absorb substantial rental costs and capital expenditure requirements.

EXPENDITURES:

1 FTE will be required to establish the arbitration mechanisms procedure and perform certification. 1/2 FTE will provide maintenance after FY 86.

FY 86:	Salary (1 FTE @ Grade 12)	\$20,812
	Operating expenses	13,500
		<u>\$34,312</u>
	Fees generated	- 3,000
	General Fund Cost	<u>\$31,312</u>

FY 87:	Salary (1/2 FTE @ Grade 12)	\$10,406
	Operating Expenses	8,500
		<u>\$18,906</u>
	Fees generated	- 6,000
	General Fund Cost	<u>\$12,906</u>

AFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

None

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Revenue and expenditures should remain fairly stable during the 1980's.

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

None

David L. Hunter

BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Jan 25, 1985

STATE OF MONTANA
FISCAL NOTE

REQUEST NO. FNN 319-85

Form BD-15

In compliance with a written request received February 4, 19 85, there is hereby submitted a Fiscal Note for S.B. 295 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

"AN ACT TO PROHIBIT THE DEPOSIT AND INVESTMENT OF STATE PUBLIC FUNDS IN A FINANCIAL INSTITUTION THAT HAS A LOAN OUTSTANDING TO THE REPUBLIC OF SOUTH AFRICA OR A SOUTH AFRICAN CORPORATION: TO PROHIBIT THE INVESTMENT OF STATE PUBLIC FUNDS IN A FIRM THAT IS DOING BUSINESS IN THAT COUNTRY: TO PROVIDE A SCHEDULE FOR THE DIVESTITURE OF ANY CURRENT INVESTMENT IN SUCH FINANCIAL INSTITUTION OR FIRM: AMENDING SECTION 17-6-211, MCA; AND PROVIDING AN EFFECTIVE DATE."

ASSUMPTIONS:

1. 1,265,278 common shares will be divested at \$.20 per share (commission costs).
2. \$157,570,000 par value of bonds will be divested at \$2.50 per 1,000 par value.
3. The shares and bonds reflected in No. 1 and No. 2 are associated with companies identified in Section 1, Paragraph 4 of the bill. (The list used for this fiscal note was provided by Payne Weber and may or may not be the actual list noted in Paragraph 4, Section 1.
4. The act of divesting and reinvesting will require additional staff for the Board of Investments.

FISCAL IMPACT:

	FY 86	FY 87	FY 88
Commission Expense	\$ 215,660	\$ 215,660	\$ 215,660
Research for Reinvestment	133,919	133,919	133,919
Proprietary Fund Cost*	\$ 349,579	\$ 349,579	\$ 349,579

*This cost would reduce the amount of earnings available for transfer to the General Fund.

TECHNICAL NOTES:

1. Future bids for the "state bank" would have to assure compliance with the proposed legislation. This might limit the number of banks that could bid.
2. It is not clear if the legislation impacts the purchase of loans from financial institutions. If so, there could be impact on the Montana Economic Development Board if participating banks are on the list mentioned in Section 1, Paragraph 4.

David L Hunter

BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Feb 8 1985
SB 295

APPROVED BY COMM. ON
BUSINESS AND LABOR

STATEMENT OF INTENT

HOUSE BILL 295

House Business and Labor Committee

A statement of intent is required for this act because it delegates rulemaking authority to the department of commerce. The department may adopt rules governing certification and auditing of manufacturers' informal dispute settlement procedures and procedures for consumers to implement the arbitration procedures of the department. It is the intent of the legislature that in developing these rules, the department look to procedures utilized by the state of Connecticut in implementing its "Lemon Law II".

Representative Schultz questioned Mr. Day as to the definition of temporary. Mr. Day explained that not cemented in concrete and not a permanent installation, would be considered temporary.

Representative Kitselman asked Mr. Day if a city ordinance exists that prohibits this type of advertising, would it take precedence. Mr. Day explained that this bill would be secondary to any city ordinance.

Proponent Roger Tippy, representing the Montana Beer and Wine Wholesalers' Association, supplied written testimony, which is attached on his witness statement.

There being no further proponents or opponents, all were excused by the chairman and the hearing on House Bill 215 was closed.

HOUSE BILL 295: Hearing commenced on House Bill 295. Representative Dan Harrington, District #68, sponsor of the bill, stated that House Bill 295 will amend the "lemon law" which was enacted in 1983 to require written notice of a nonconformity before an automobile purchaser is eligible for a refund or replacement. The bill eliminates any liability of the dealer to a manufacturer unless the dealer failed to follow the manufacturer's instructions in carrying out the repairs.

The bill also provides other mechanisms for implementation of the law. House Bill 295 extends the warranty period to two years or 18,000 miles. Representative Harrington distributed to committee members a statement of intent, which is attached hereto as Exhibit 2.

Proponent S. Jimmy Weg, private citizen, presented testimony as shown on the witness statement which is attached hereto as Exhibit 3.

Proponent B. Markle, representing the Department of Commerce, offered his support of House Bill 295. The procedure would be very time consuming and cost approximately \$46,000.00 to implement, added Mr. Markle.

Proponent Teri England, representing Montana Public Interest Research Group, supplied written testimony from Mr. C. B. Pearson, Executive Director of MontPIRG, which is attached hereto as Exhibit 4. Ms. England, also furnished Exhibits 5, 6 and 7.

Tom Harrison, representing the Montana Automobile Association stated that he has no position on House Bill 295. Mr. Harrison distributed to committee members Exhibit 8, which would add a new section to the bill. The section would provide that the liabilities in House Bill 295 may not be assigned to any other person.

In closing, Representative Driscoll stated that with the number of "lemon" automobiles, the dollars to the department would be well spent to help alleviate this problem.

Representative Bachini asked Mr. Markle if he had the figures for the number of complaints that were filed with the department for 1984. Mr. Markle explained that the department did not accept any complaints. Approximately 20 - 30 calls were received by the department who recommended that these individuals consult an attorney.

Representative Wallin asked Representative Harrington if he thought the increase in the warranty period to two years may affect the initial cost of a vehicle. Representative Harrington explained that the one year extension is necessary.

Representative Ellerd asked Mr. Markle what protection a consumer has presently and if these rights are well protected by law. Mr. Markle explained that the consumer is protected by the warranty provisions as set out in each warranty and that the consumer is probably not well protected. There are only a few attorneys in the state who will handle these types of cases.

Representative Ellerd then asked Mr. Markle if the State has the authority to create this type of law. Mr. Markle was not sure. Representative Ellerd does not think that Montana can pass this law and enforce it. Representative Harrington explained that this type of legislation is being used in other states and used successfully.

Representative Schultz suggested to Representative Harrington that a provision be considered that would zero in on "lemons", to avoid the increase in automobile prices that would effect all consumers.

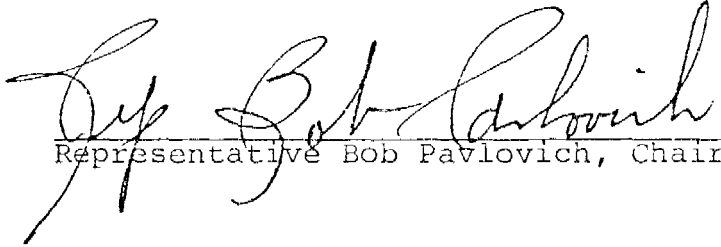
Chairman Pavlovich appointed a subcommittee to consider House Bill 295. Representative Wallin will chair the committee with Representatives Hansen, Nisbet and Thomas serving.

There being no further discussion by proponents or opponents, all were excused by the chairman and the hearing on House Bill 295 was closed.

ACTION ON HOUSE BILL 184: Representative Driscoll moved that the committee reconsider its action on House Bill 184. Question being called, which resulted in all but Representatives Wallin, Schultz and Thomas voting yes. Representative Brandewie motioned that House Bill 184 be TABLED. Representative Driscoll made a substitute motion that House Bill 184 DO PASS without the amendments. Representative Thomas questioned the reasoning for reconsidering House Bill 184. Chairman Pavlovich explained that the purpose of House Bill 184 is to change from merchandise to cash

ACTION ON HOUSE BILL 295: Representative Wallin moved DO PASS on House Bill 295. Representative Wallin then moved the amendments that are attached hereto as Exhibit 9. The amendments PASSED by a unanimous vote. Representative Wallin moved the Statement of Intent, which PASSED unanimously. House Bill 295 DO PASS AS AMENDED, STATEMENT OF INTENT, attached, by unanimous vote.

ADJOURN: There being no further business before the committee, the meeting was adjourned at 10:55 a.m.


Representative Bob Pavlovich, Chairman

STANDING COMMITTEE REPORT

February 14, 1995

page 1 of 3

SPEAKER

MR.

BUSINESS AND LABOR

We, your committee on

having had under consideration HOUSE Bill No. 295

FIRST

WHITE

reading copy (.....)
color

REVISION OF MOTOR VEHICLE LEMON LAW

Respectfully report as follows: That HOUSE Bill No. 295

BE AMENDED AS FOLLOWS:

- 1) Page 2, line 6
Following: line 5
Strike: Subsection (5) in its entirety
Re-number: subsequent subsections
- 2) Page 2, line 17
Following: "61-1-133"
Insert: "or a truck with 10,000 pounds or more gross vehicle weight rating"
- 3) Page 5, line 1
Following: "plus"
Insert: "reasonable"
Following: "charges"
Strike: "2" " " "
1

DO PASS

- 4) Page 5, line 2
Following: line 1
Strike: "finance charges,"
- 5) Page 6, line 2
Following: "express"
Strike: "and implied"
- 6) Page 8, line 23
Following: "to"
Strike: "injure"
Insert: "create hardship to"
- 7) Page 11, line 3
Following: line 7
Insert: "(5) The manufacturer's fee provided in subsection (3) is due only if the department arbitration procedures are utilized."
- 8) Page 14, line 3
Following: "Section 17."
Strike: the remainder of line 3 and lines 4 through 15 in their entirety
Insert: "Non-delegable. The liabilities and obligations contained in this act may not be delegated or assigned to or assumed by any other person or entity."

AND AS AMENDED
DO PASS
STATEMENT OF INTENT ATTACHED

AMENDMENTS TO HOUSE BILL 295

- PAGE 2, Line 17: "nor trucks with 10,000 lb. GVW rating or over."
- PAGE 4, Line 6: Add after word "vehicle", "and that arbitration procedure are available."
- PAGE 5, Line 1: Add the word "reasonable" between plus and collateral; delete the comma after charges.
- PAGE 5, Line 2: Delete "finance charges"
- PAGE 6, Line 2: Delete "and implied"
- PAGE 8, Line 23: Delete "injure" and insert in lieu thereof, "create hardship to"
- PAGE 11, Line 8: (5) The manufacturer's fee herein provided shall be due only if the department arbitration procedures are utilized.
- PAGE 14, Line 3: Delete all of Section 17.
- PAGE 14, Line 17: Add new Section 18: Section 18. Non-delegable. The liabilities and obligations contained in this act may not be delegated, assigned, or assumed to or by any other person or entity whatsoever.

Remaining sections to be renumbered accordingly.

page 2, strike Subsection 5 in entirety

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

April 12, 1985

The sixty-third meeting of the Senate Judiciary Committee was called to order at 10:05 a.m. on April 12, 1985, by Chairman Joe Mazurek in Room 325 of the Capitol Building.

ROLL CALL: All committee members were present, with the exception of Senators Crippen and Daniels who were excused.

CONSIDERATION OF HB 295: Representative Dan Harrington, sponsor of the bill, stated this bill is commonly known as Lemon Law II. In 1983 he was successful in passing Lemon Law I, which he hoped would be an answer to some of the problems facing the consumers. Many problems have begun to exist as far as cars are concerned. There is no way for the state to actually handle this. The automobile industry has set up a system of Auto CAP (Consumer Action Programs) and arbitration boards to settle disputes. This has been unsuccessful. This bill extends the lemon law to a two-year or 18,000 mile warranty. The purchase of an automobile is the second greatest purchase the consumer can make these days. People cannot afford to go out and pay this amount of money and not have the satisfaction of getting something worthy of it. Representative Harrington introduced into evidence several letters from consumers who have purchased unsatisfactory automobiles (Exhibit 1). He has in his file over 100 additional letters from people who have contacted him over the last few weeks who have had problems with their cars. Representative Harrington testified the two basic parts of the bill are to set up the warranty and to set up arbitration boards. He would like to have a citizen board. The automobile industry has set up arbitration boards, not one of which has been certified by federal law. Our law is modeled after the Connecticut law. Once these arbitration boards are certified by the federal government, they will have met the arbitration standards and the state will not have to worry about it. In the meantime, the state must set up some arbitration panels. If the automobile industry's panels do not meet federal standards, then we will have the state panels to fall back on. Representative Harrington believes what we need in Montana is somewhere the consumer can go when he has a problem. He pointed out 90% of the cars are in very good running shape and the consumers get their moneys worth out of them, but the other 10% of the consumers should also be protected.

PROPOSERS: Robert Wood, General Counsel, Department of Commerce, appeared representing Brint Markle, Chief Counsel of the Consumer

Affairs Division. He addressed the two major issues of the bill. First, the two-year warranty period. They believe it is necessary in light of the cost of automobiles and their experience with automobile complaints. It is necessary to see what defects might arise. Second, the citizens' arbitration panel. In the absence of federal standards, they believe a panel provides a fair and reasonable forum. There are provisions in our statutes for people who feel they have been wronged by the panel. Norm Proctor, Manager, State Government Relations, Paccar Inc., testified Paccar is essentially an assembler of vehicles. Mr. Proctor presented written testimony in support of the bill (Exhibit 2). He further stated Senator Farrell would be offering an amendment to include heavy duty trucks in the bill. They would oppose that amendment, but they would support the automobile manufacturers' amendments. Teri England, representing the Montana Public Interest Research Group, submitted written testimony in support of the bill (Exhibit 3). She testified consumers need protection; while the first lemon law helps, we need to strengthen the laws in this regard. Senator Bill Farrell testified in support of the bill but offered an amendment (Exhibit 4). The bill has excluded large trucks. He is suggesting essentially putting large trucks back into the bill. The letter from Paccar leads you to believe the owner-operator is protected from this. Owner-operators are paying for this. They can't afford the time of going through the legal process with a lawsuit because the vehicle payments go on. By excluding large trucks, they lose the slight bit of leverage the single operator has. This is not a one-time deal. Page 4 states "if after a reasonable number of attempts." If they don't want to deal with a particular engine company or a parts company, it doesn't have to. The dealer can go back and sue the manufacturer. Paul Brady, who lives South of Great Falls, testified he purchased a lemon. He paid \$19,000 for a Ford 4x4. He then reiterated the extensive problems he had with his vehicle. He made numerous attempts to get it fixed. He also went to the Consumer Affairs Division in Helena. Finally, he had to see an attorney. His first truck was a Ford which he purchased in 1971. He put 118,000 miles on that vehicle before purchasing the new one. He believes Tonka builds a tough truck, not Ford. John Motl, a registered lobbyist speaking on his own behalf, testified one-half of his practice consists of consumer cases. They are difficult for attorneys to deal with because the amount of money involved isn't always that large and many times you want to encourage them to try and resolve the problem between themselves and the seller. His general approach to a consumer case is to work with the consumer and see if they can go back to the seller to settle the case themselves. That is tough with automobiles, because dealers try to ignore consumers and wait it out. He looks at this bill as a way to improve the bargaining position of the consumer with respect to the dealer. That will encourage give and take between the manufacturer and purchaser. Don Miller testified he has been following mechanics for better than 40 years. He has seen situations

that were inexcusable on the part of dealers. He owned a 1964 GMC pickup which he sold with 90,000 miles and had no problems. He now drives a 1980 Ford Fairmont. It does not have a safe motor in it and may be a hazard to safety. He thinks the dealer should assert extra effort to remedy the problem and the company should be compelled either ethically or legally to correct that problem because lives are at stake in the process. If the company doesn't have ethics enough to correct those kinds of problems, there should be some kind of legal remedy to make them. Mr. Miller related stories of several lemons with which he has had contact. Frank Obstarzce, of Great Falls, stated he would like to see an amendment for reciprocity between the states that have lemon laws. When he purchased a new vehicle, his dealer said his warranty was good anywhere in the country. However, when he attempted to get service elsewhere, he found that was not true. He wrote for arbitration in 1984. He has yet to see the arbitration board. This bill allows arbitration in the state of Montana because the manufacturers' arbitration boards never show up anyway.

OPPONENTS: Tom Schwertfeger, Denver Regional Office, Motor Vehicle Manufacturers Association, testified he could support three sentences in the bill--amendments by the House which exclude heavy duty trucks for the reasons set forth by Paccar. He has three major objections to the bill, two of which are addressed by amendments he submitted to the committee (Exhibit 5). The first amendment has to do with the extension of warranty. He would oppose that concept in law. It has the effect of statutorily determining warranty decisions on products. He believes that is a competitive issue between manufacturers. Consumers can shop for longer warranties. The second objection, which deals with his proposed amendment No. 2, would delete the loaner car. As presently drafted, the legislation places that responsibility upon the manufacturer to provide a loaner car. They do not have fleets of loaner cars to make available to dealers or consumers, especially since the bill states these cars can only be two years old. His third objection relates to the creation of the state arbitration program at a cost of \$31,000 in fiscal year 1986. He believes it is unnecessary and duplicative of existing manufacturers' arbitration programs. It is his understanding the Federal Trade Commission (hereinafter referred to as FTC) has no intention of certifying them. He believes the existing arbitration programs are working. Just because the FTC has not certified them does not mean they are not effective or independent or impartial. He believes certification is a non-issue. Those programs in many cases are being conducted in the state of Montana. Lucille Douglas, Owner Relations Manager, Ford Motor Company, submitted written testimony in opposition to the bill (Exhibit 6). Dean Mansfield, Vice President, Montana Auto Dealers Association, testified the dealers are in the middle of the problem. They stand neither to support nor to oppose the bill but only

in support of certain amendments. They are concerned about the increase in cost this may impose on new vehicles because of the mandatory warranty provision. Dealers do not have cars to loan or rent. They are concerned about the effect of this requirement on smaller dealers. Because of tight insurance restrictions, most dealers are prohibited from providing loaner cars. They support the amendments to delete the two-year warranty period and to delete the loaner car provision. The dealer-operated arbitration program called Auto Cap (Consumer Action Program) deals with consumer complaints and has worked very well. He testified 90% of the complaints it deals with are resolved through the arbitration process, although it cannot deal with lemon law cases.

QUESTIONS FROM THE COMMITTEE: Senator Towe asked Ms. Douglas if the automobile appeals board provision outlined in her letter would qualify for the provision outlined on page 7 of the bill which says you do not need a separate panel if the manufacturer already has a dispute procedure. Ms. Douglas stated that would seem to be true. Senator Towe asked if that would cause any problems as far as Ford is concerned. Ms. Douglas responded no. Senator Towe asked what Ford's opposition to the bill was. Ms. Douglas replied the FTC does not certify their panels, but the independent audit they had done says they substantially comply with the requirements. She understands this bill is seeking certification. Representative Harrington responded he feels it is not the FTC certification they are looking for. It says if they comply with the regulations in this bill, the state will certify them. After they certify them, they must live up to the standards. Senator Towe pointed out that as he reads the bill on page 7, the department shall issue a certificate of approval to a manufacturer who complies. The department appears to have no choice. Representative Harrington replied that is correct. If they go along with that, then there is no problem. Senator Towe asked Ms. Douglas what she found wrong with that. She was concerned whether the certification would be accepted by the state automatically or if they in turn would have to go through another certification in some fashion. Senator Towe stated he felt the state should have the opportunity to look and see if it is in compliance. Mr. Schwertfeger felt it would be duplicative recordkeeping and certification. If each state were to adopt this, they would be submitting their panel to every state and to the federal government. That is duplicative of what is being conducted at the federal level. The statement of intent indicates they might also have to meet other rules. Senator Mazurek asked Mr. Motl if the Magnuson-Moss Act provided for attorneys' fees under the lemon law. Mr. Motl responded he believes most attorneys allege a separate count of violation of the Consumer Protection Act. Magnuson-Moss does allow attorney fees, but attorneys actually use Montana's Consumer Protection Act. Senator Mazurek pointed out the 18,000 mile limit will not extend this act for owner-operators because they put that many miles on in three months. Mr. Proctor responded there are warranties

from the manufacturers. He questioned whether they should give you a new vehicle because you told them the type of component you wanted in your truck and they did nothing more than assemble it. Senator Mazurek replied 18,000 miles would not be that much more protection due to the nature of the work. Mr. Proctor pointed out Wisconsin's lemon laws include trucks. Senator Mazurek commented the policy decision they, as the legislature, must make is who is in a better position to bear the cost of that--the consumer or the assembler. Mr. Proctor stated if the consumer is asking for that part, and their job is to construct it to the consumer's specifications, the consumer should bear that cost. Senator Mazurek questioned whether the warranty is something the state should be getting into. Representative Harrington pointed out the good will adjustment mentioned in Ford's written testimony is paid for by the consumer. He believes you should be guaranteed that. Many people keep that car 9-10 months and then unload it because they want to get rid of it. The next person gets it and only has it two months before something happens. The car then just sits there. The two-year period guarantees that car will still maintain that warranty. A lot of cars will be unloaded. This bill protects the dealers, and he can't understand why they are against it. It gives them a remedy. The bill also states used cars must be distinguished as lemons. Senator Towe asked Representative Harrington to respond to the concern that the industry has expressed that they would have to go into 50 states with 50 certification procedures and why isn't the federal certification enough. Representative Harrington replied once the federal law is set up, they only have to fall into that. They could be audited to see how they were doing on these arbitration panels, however. Senator Towe asked if the federal regulation provided for a certification of compliance. Representative Harrington responded he did not think it did. Senator Towe asked if he would have a problem if they provided production of a federal certification certifying compliance with the federal regulations was sufficient in lieu of a state certification. Representative Harrington responded no, just so they would fall within the federal guidelines. Senator Towe commented he noticed the bill did not state where the arbitration should take place. Representative Harrington stated the statement of intent indicates the rules and regulations would be set down by the Consumer Affairs Division. He did not feel people should have to go to Denver to arbitrate. Senator Towe asked if he had an objection if they made that clear in the statute. Representative Harrington replied he would have no problem with that, as that is one of the biggest problems these people have. Ms. Douglas commented customers do not appear unless their panel invites them to do so; everything is decided on documentation provided to the panel. Senator Towe asked if she were suggesting that this procedure which does not allow any participation from the consumer is in full compliance with the FTC and we can, by adopting that system, avoid their having to listen to the consumer. Ms. Douglas stated the consumer may request to be invited to attend. Senator Towe asked if he

had a right to attend. Ms. Douglas responded yes. Senator Towe suggested they say that right can be exercised within the state of Montana and at a place convenient to the consumer. Ms. Douglas replied only the board decides where it will meet. Senator Blaylock asked if the loaner car demand would be for only those cars that meet the definition of a lemon. Representative Harrington responded it would be for cars that have been proven to have serious problems and they take them in to be worked on. Senator Blaylock asked if the loaner car were mandatory from the dealer only where the car meets the definition of a lemon or when they have a serious problem with their car. Representative Harrington responded both. Senator Blaylock commented, knowing the dealers, that is quite a demand and quite an expense. Representative Harrington replied, yes, but he believed the dealer can bill the manufacturer for that. He stated the House subcommittee agreed there would be no problem with this loaner car. He was surprised the Judiciary Committee felt there might be. Senator Pinsoneault asked if they agreed with the basic premise every once in a while, there is a car put out that isn't worth a damn. Mr. Schwertfeger replied he acknowledges there may be problems with parts, but he would not go so far as to say the entire automobile is worthless. Senator Pinsoneault stated everyone has had problems with a vehicle, such as the man with the Ford who testified. Why didn't Ford take that automobile back and give him another one? Mr. Schwertfeger replied there are buy outs and buy backs voluntary on the person even without arbitration.

CLOSING STATEMENT: Representative Harrington commented as far as the amendment with the trucks, they put the amendment in to take them out because the truckers' lobbyist came in and said they wanted them out. In spite of that, he has no problem with that amendment. He pointed out many people go back to the dealer and say this car's a lemon, take it back, and I won't pay another dime. The car is then repossessed, and the person loses his credit rating. That is one of the basic problems. When we talk about lemon disclosure, we are in essence helping in the used car sales of lemons. Some of the settlements made with people are that they buy another car. The extended warranty is only for lemons. People don't buy cars to have problems. The problems should be remedied.

Hearing on HB 295 was closed.

There being no further business to come before the committee, the meeting was adjourned at 11:28 a.m.


Committee Chairman

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

April 15, 1985

The sixty-fourth meeting of the Senate Judiciary Committee was called to order at 10:35 a.m. on April 15, 1985, by Chairman Joe Mazurek in Room 325 of the Capitol Building.

ROLL CALL: All committee members were present, with the exception of Senator Crippen, who was excused.

ACTION ON HB 295: Proposed amendments were distributed to the committee: Amendments from Senator Mazurek which would conform this bill to his SB 110 dealing with arbitration (Exhibit 1); an amendment offered at the hearing by Senator Bill Farrell (Exhibit 2); and amendments offered at the hearing by the Motor Vehicle Manufacturers Association (Exhibit 3). Senator Shaw moved that HB 295 be tabled. He felt the bill was unenforceable. He also felt consumers should stand on their own hind legs and not expect anyone to protect them. Mr. Petesch explained that the amendments proposed by Senator Mazurek affected Sections 10 and 14, in which there are references to Title 27, chapter 5. Senator Mazurek's bill repeals those sections. The proposed amendments just say that if this bill and SB 110 both pass, the bracketed materials will be replaced. Senator Towe moved as a substitute motion that the amendments on Exhibit 1 be adopted. The motion carried unanimously. Senator Towe then spoke against Senator Shaw's motion stating even the automobile industry admitted there are occasionally lemons and there is nothing more frustrating than taking a car back to the garage time and time again. Senator Towe felt this bill was a reasonable approach to the problem. The motion to table failed with Senators Galt and Shaw voting in favor. Senator Towe moved that HB 295 be amended as follows:

Page 7, line 18.

Following: "procedure"

Insert: "must afford the consumer or his representative an opportunity to appear and present evidence in Montana at a location reasonably convenient to the consumer, and further"

He commented the amendment was offered following the comments made by Ms. Douglas from Denver that in fact they don't always afford the individual an opportunity to appear in those procedures. If the procedure is authorized under federal regulation, they should allow them an

Senate Judiciary Committee
Minutes of the Meeting
April 15, 1985
Page 2

opportunity to appear. The motion carried unanimously. Senator Towe moved adoption of the following amendment:

Page 9, line 24.

Following: "."

Insert: "All arbitration shall take place in Montana at a place reasonably convenient to the consumer."

He offered this amendment in the event Senator Mazurek's SB 110 does not pass, in which case we would need it. If the bill passes, it is unnecessary. The motion carried unanimously. Chairman Mazurek stated Exhibit 2 dealt with big trucks. Senator Towe replied it wouldn't really have much effect because 18,000 miles can be driven in the first two months. Chairman Mazurek stated the next amendment deals with loaner cars. Senator Pinsoneault asked if the vehicle has to be a lemon before the question comes up. He didn't agree that it would be necessary to have a fleet of loaners. Senator Blaylock agrees that is asking too much and should be left out. Senator Pinsoneault did not feel the two-year age restriction on loaner vehicles would be necessary as long as the vehicle loaner were reliable. Mr. Petesch explained the two years is to conform to the warranty period. Senator Mazurek stated you don't get a loaner unless the manufacturer brings it in so they can fix it. He questioned how that would affect a small dealer in Plentywood. Senator Towe replied the manufacturer will make arrangements with the dealer to have a car. He believes a prominent citizen will be given a loaner, but the poor person will not get that treatment. He felt that inequity should be corrected and felt this would be the vehicle to do so. Senator Mazurek stated the trouble for most dealers is if they are going to do it on behalf of the manufacturer, their insurance won't permit it. Senator Towe suggested they would be able to get that type of insurance coverage if they were to shop around. He thinks it is reasonable and doesn't think the consumer will get stuck with that. Senator Blaylock stated dealers have problems with manufacturers. It is hard to make a manufacturer do something. Senator Pinsoneault stated if the repairs require that the vehicle be kept longer than say three or five days, maybe they should be obligated to provide a loaner car. He agreed with Senator Blaylock that the little dealer will get stuck. Senator Galt suggested just accepting these amendments. Senator Mazurek stated the nice thing about having this provision is if the dealer gets in a spat with the manufacturer, they can go to the Justice Department and Mr. Majerus will hold a hearing. Senator Towe moved the bill be amended as follows:

1. Page 8, line 9.

Following: "than"

Strike: "2"

Insert: "4"

2. Page 8, line 10.

Following: "repair"

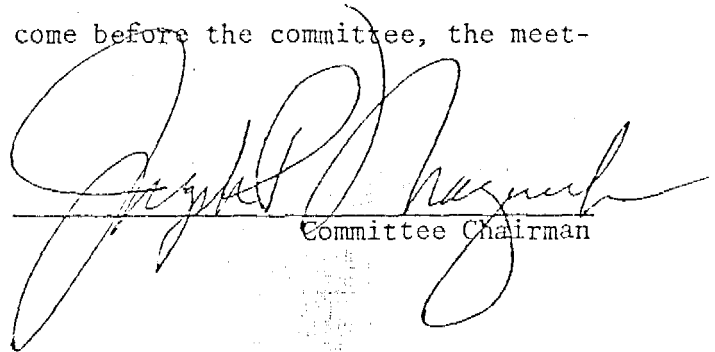
Insert: "if the vehicle is retained for more than 3 days"

Senator Pinsoneault felt this would be incentive to get the car fixed. The motion carried unanimously. Chairman Mazurek stated the next amendment dealt with the warranty period. Senator Brown asked how near that was to complying with the typical existing warranty provisions. Senator Mazurek replied nearly all have that much of a warranty, although others, such as Chrysler, have a 50,000 mile, five-year warranty. Senator Galt felt the committee should let the manufacturers decide the warranty period themselves. He believes it encourages competition. Senator Towe stated everything in this bill ties into this warranty section. If you take that out, it causes problems with the rest of the bill. Senator Galt stated you can't take care of everyone. Senator Yellowtail commented he didn't see a need for this law to be tied directly to a manufacturer's warranty. This law ought to have its own separate effectiveness period. He suggested changing the word "warranty" to something else, such as "effectiveness of this act." Senator Mazurek responded you are by statute creating a two-year warranty. Senator Towe replied the warranty the manufacturer gives may be much broader than what is provided in this act. Senator Towe moved HB 295 be recommended BE CONCURRED IN AS AMENDED. The motion carried unanimously. Senator Brown stated he would feel more comfortable in voting for the bill with the warranty provision taken out. He feels it is unwarranted infringement on the dealers' ability to compete with each other. Senator Brown moved that the committee reconsider its action on the bill for purposes of taking the warranty section out of the bill. Senator Towe stated the comment he made earlier was this warranty period for purposes of this bill has no connection with the warranty the manufacturer gives when the automobile is sold. In the bill, we are talking about the right to bring your car in if in fact there is a problem with it. You can bring it back in again and again and then you know you have a problem with it. The motion to reconsider carried (see roll call vote attached as Exhibit 4). Senator Brown moved that on page 3, line 10, we substitute the stricken language for the inserted language so we are talking about one year instead of two years and 18,000 miles. He preferred going back to the stricken language. Senator Yellowtail asked what was the implication of what we are doing here in terms of the whole year. He asked if that meant after 12,000 miles or one year, he no longer has a claim. Senator Brown pointed out the manufacturer may want to sweeten up its warranty. Mr. Petesch pointed out another statute says if you take an automobile out of service 30 days or attempt to repair a defect four or more times, then you have a lemon. One of the times has to be within the warranty period, and you have to give notice. Senator Mazurek stated if you have one complaint during the first year

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and that continues to occur, then you have a lemon problem. Senator Yellowtail asked what if he were Nannabelle Nickleberry and only drove his car to church and is a low-mileage driver, if we are limiting this to one year, Nannabelle Nickleberry might not have the benefit of this law. The motion failed with Senators Blaylock, Pinsoneault, Shaw, Towe, and Yellowtail voting in opposition. Senator Towe moved HB 295 again be recommended BE CONCURRED IN AS AMENDED. The motion carried with Senator Shaw voting in opposition.

There being no further business to come before the committee, the meeting was adjourned at 11:05 a.m.



Committee Chairman

PROPOSED AMENDMENTS TO HB 295:

1. Page 9, line 23.

Following: "~~33~~" to

Insert: "[",

2. Page 9, line 24.

Following: "5"

Insert: "]"

3. Page 13, line 6.

Following: "of"

Insert: "[

4. Page 13, line 7.

Following: "3"

Insert: "]"

5. Page 15, line 23.

Following: "No."

Strike: "252"

Insert: "110"

6. Page 15, line 24.

Following: "including"

Strike: "section 12"

Insert: "sections 10 and 14"

Following: "act"

Strike: remainder of line 24 through "252" on page]6, line 3 in
their entirety

Insert: ", the bracketed language in sections 10 and 14 is replaced
with a reference to Senate Bill No. 110"

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 1

DATE 04 / 15 / 85

BILL NO. H.B. 295

Montana Senate Judiciary Committee
Amendments to House Bill 295
Presented by the Motor Vehicle
Manufacturers Association
April 12, 1985

Amend House Third Reading Version of House Bill 295

Amendment No. 1

On Page 3, delete lines 10 through 14.

Amendment No. 2

On Page 8, delete lines 5 through 10 .

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 3
DATE 04 15 85
BILL NO. H.B. 295

AMENDMENT TO HOUSE BILL 295

1. Page 2, line 21 and line 22
Following "61-1-130."
Strike: "A truck with 10,000 pounds or more gross vehicle
weight rating,"

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. -2
DATE 04 15 85
BILL NO. H.B. 295

STANDING COMMITTEE REPORT

Page 1 of 2

April 15

19 35

MR. PRESIDENT

JUDICIARY

We, your committee on.....

HOUSE BILL

No. 295

having had under consideration.....

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(Senator Christiaens)

REVISION OF MOTOR VEHICLE LEMON LAW

HOUSE BILL

No. 295

Respectfully report as follows: That.....

be amended as follows:

1. Page 7, line 13.

Following: "procedura"

Insert: "must afford the consumer or his representative an opportunity to appear and present evidence in Montana at a location reasonably convenient to the consumer, and further"

2. Page 8, line 9.

Following: "than"

Strike: "2"

Insert: "4"

3. Page 8, line 10.

Following: "repair"

Insert: "if the vehicle is retained for more than 3 days"

4. Page 9, line 23.

Following: "to"

Insert: "["

5. Page 9, line 24.

Following: "5"

Insert: "]"

Following: "."

Insert: "All arbitration shall take place in Montana at a place reasonably convenient to the consumer."

XXXXXX

XXXXXXXXXX

CONTINUED

Chairman.

Page 2 of 2

HOUSE BILL NO. 295

6. Page 13, line 6.

Following: "of"

Insert: "["

7. Page 13, line 7.

Following: "3"

Insert: "]"

8. Page 15, line 23.

Following: "No."

Strike: "252"

Insert: "110"

9. Page 15, line 24, through line 3, page 16.

Following: "including" on line 24

Strike: "section 12"

Insert: "sections 10 and 12"

Following: "act" on line 24

Strike: remainder of line 24 through "252" on line 3, page 16, in their entirety

Insert: ", the bracketed language in sections 10 and 14 is replaced with a reference to Senate Bill No. 110"

AND AS AMENDED

BE CONCURRED IN

Senator Joe Mazurek, Chairman

Bob Stockton (312), Director, State Aid and Transportation, Office of Public Instruction (OPI) supports the bill and will give the LFA proposed amendments at a later date.

Ross Fitzgerald (318) supports the bill (EXHIBIT 25).

Opponents: None

Committee Discussion:

Representative Waldron (343) asked how the Legislature is to know if statutory appropriations have not been included in the bill. Chairman Bardanouve said there will always be the possibility of some statutes not being included.

Representative Waldron asked if there are any sanctions if funds are spent which are not listed in the bill. Mrs. Ripplingale said there are no sanctions in the bill, but there is a section of law which pertains to over spending of budgets and the sanctions that apply to agencies which do this.

Mrs. Ripplingale said it is very difficult to know how many statutory appropriations exist. She said her office did a printout with the most commonly used combinations of wording for statutory appropriations. There are 200 to 300 word combinations which applied to this type of appropriation. She said a person could spend forever looking for these appropriations and still not find them all.

Representative Waldron (402) asked why the bill is needed. Chairman Bardanouve said the bill is trying to determine what should be a legislative appropriation and what is appropriated by law.

HOUSE BILL 295: "AN ACT TO GENERALLY REVISE THE NEW MOTOR VEHICLE WARRANTY REMEDY LAW; INCREASING MINIMUM WARRANTY PERIODS; PROVIDING FOR REMEDIES, DISCLOSURES, AND PENALTIES; CREATING AN ARBITRATION PROCEDURE; AMENDING SECTIONS 61-4-501 THROUGH 61-4-503 AND 61-4-505 THROUGH 61-4-507, MCA; AND PROVIDING AN APPLICABILITY PROVISION AND AN IMMEDIATE EFFECTIVE DATE."

Representative Dan Harrington (436), District 68, chief sponsor, introduced this bill and gave members letters he has received from lemon car owners (EXHIBIT 26).

Chairman Bardanouve (495) said the reason the bill was sent to Appropriations is because of its financial impact and proponents and opponents should limit their testimony to this issue.

Proponents:

Briton Markle (507), Attorney, Department of Commerce said the Department will need \$31,000 the first year of the next biennium to set up the arbitration procedure. The second year \$12,000 will be needed. He said initially 1 FTE will be needed, but once the mechanism is in place full-time personnel will not be needed. Mr. Markel said the department estimates it will receive 10 complaints in 1986 and 20 in 1987. He said there is a similar arbitration procedure in Connecticut which is administered by the Attorney General's Office in that state. He said Connecticut is being sued by the Chrysler Corporation on some of the terms of its law.

Chairman Bardanouve asked who will pay for the cost of the suit. Mr. Markel said in Connecticut he assumes the Attorney General's budget covers it, but in Montana, the department could not afford to provide for legal expenses in such a suit.

Corrinne Reneau-Fay, Helena, lemon owner, supports the bill (EXHIBIT 27).

Julie DalSoglia (656), Montana Public Interest Research Group supports the bill (EXHIBIT 28).

Frank Obstarczyk (684), Great Falls, owns a lemon and supports the bill.

(Tape 60:B:001)

Carol McEvoy, Clancy, lemon owner described problems with her vehicle and supports the bill.

Opponents: None

Committee Discussion:

Representative Quilici (060) asked Mrs. McEvoy if she believes it is in the best interest of the people of Montana to spend \$40,000 to \$45,000 on this bill. Mrs. McEvoy said she believes the bill will help people in the long run, but it probably will not help in her particular situation because the problems have been going on for some time.

Representative Donaldson (079) asked, if there are more complaints, will more FTEs be needed to handle them. Representative Harrington said no, one FTE is needed to get the procedure started and after that 1/2 a FTE will be able to handle all complaints.

Representative Thoft (110) asked, if the bill is passed, will automobile corporations automatically sue the state. Representative Harrington said the suits in Connecticut



are counter suits. The arbitration panel has ordered the manufacturer to fix a car and the manufacturer is now counter suing the state.

Representative Waldron (141) asked if there will be enough complaints filed to offset the expense of the FTE. Representative Harrington said filing fees will cut the fiscal note in half.

SENATE BILL 382: "AN ACT TO REQUIRE THE BOARD OF PUBLIC EDUCATION TO SUBMIT ANY REQUEST FOR A LEGISLATIVE APPROPRIATION FOR STATE EQUALIZATION AID TO THE BUDGET DIRECTOR PRIOR TO A LEGISLATIVE SESSION; TO APPROPRIATE FUNDS TO THE BOARD OF PUBLIC EDUCATION FOR THE PURPOSE OF PREPARING SUCH A BUDGET REQUEST; AMENDING SECTIONS 17-7-111, 17-7-112, 20-2-121, AND 20-9-344, MCA."

Senator Ted Neuman (176), District 21, introduced his bill. He said he is concerned about how funding figures are determined for the Foundation Program each session. He said this bill will make an attempt at determining what the cost of basic public education is in Montana.

Proponents:

Ted Hazelbaker (209), Chairman, State Board of Public Education, supports the bill (EXHIBIT 29).

Hidde Van Duym (255), Executive Secretary, State Board of Public Education, supports the bill (EXHIBIT 30). Mr. Van Duym submitted silent testimony from Jacob Block, superintendent of an elementary school in Missoula (EXHIBIT 31).

Rod Svec (292), school superintendent from Hardin, appeared as a proponent of the bill (EXHIBIT 32).

Phil Campbell (332) represents the Montana Education Association and supports the bill.

Opponents:

Bob Stockton (359) gave the committee a computer printout which illustrates the detailed financial information OPI is currently collecting. He said no Board of Public Education, present or past, has asked to look at the summary of financial data collected by OPI. Mr. Stockton said he supports studying education on a programmatic basis. However, he wants the committee to have a clear understanding of the cost involved in collecting this kind of data. Mr. Stockton listed the following costs for getting financial data on a programmatic basis:

exempts people working in group homes from the minimum wage and hour laws.

Proponents: None.

Opponents: Representative Menahan (133) asked what type of persons will work in the group homes at these wages. There will be a big turnover, he said.

Dave Wanzenried (147) said he is not an opponent or proponent, but he wants the committee to know the Federal District Court case in Tennessee subjects these types of positions to the federal Fair Labor Standards Act and the U.S. Department of Labor is enforcing that order. He said there may be a problem with the bill.

Representative Rehberg closed on the bill. Addressing Representative Menahan's concerns, he said the mentally retarded group homes are under the minimum wage and hour laws at the federal and state level. This bill addresses those persons employed in a non-profit, private organizational homes operating for minors placed in the group homes by a state agency or court.

Representative Winslow closed on his bill.

E X E C U T I V E A C T I O N :

Representative Donaldson (190) made a motion that House Bill 957 DO PASS. A roll call vote was taken and the motion carried, with Representatives Bradley, Connelly, Menahan, Quilici, Spaeth and Waldron voting no.

HOUSE BILL 956: Representative Moore made a motion that House Bill 956 DO PASS. A voice vote was taken and the motion carried.

HOUSE BILL 295:

Representative Menahan (250) made a motion that House Bill 295 Do Pass.

Peter Blouke, Office of the LFA, said the Motor Vehicle Association has filed suite against Connecticut to stop the Lemon Law and claim the arbitration procedure has been biased against the manufacturers. The suit is in litigation now. He said the fiscal note attached to HB 295 is unrealistic in regard to the revenue estimate.

Representative Moore (320) made a substitute motion that House Bill 295 Do Not Pass. A roll call vote was taken and the motion failed, with Representatives Bardanouve, Bradley, Connelly, Hand, Lory, Manuel, Menahan, Peck, Quilici, Spaeth and Waldron voting no.

The committee asked that the vote be reversed, so the action on House Bill 295 is DO PASS.

STANDING COMMITTEE REPORT

March 30, 1955

MR. SPEAKER

APPROPRIATIONS

We, your committee on

having had under consideration HOUSE Bill No. 295

Third reading copy (Blue color)

Revision of motor vehicle license law.

HOUSE Bill No. 293
Respectfully report as follows: That

DO PASS

FRANCIS SADDAROLIVE Chairman.

STATEMENT OF INTENT

House BILL 295

A statement of intent is required for this act because it delegates rulemaking authority to the department of commerce. The department may adopt rules governing certification and auditing of manufacturers' informal dispute settlement procedures and procedures for consumers to implement the arbitration procedures of the department. It is the intent of the legislature that in developing these rules, the department look to procedures utilized by the state of Connecticut in implementing its "Lemon Law II".

testified as to how many times my vehicle was repaired, but, since the dealer does not give receipts for warranty work, they can easily manipulate their records to show whatever they want.

I also made demand under the lemon law to Ford Motor Co., but they never even replied to my demands. Enforcing the lemon law in court will cost the consumer more than the amount his vehicle will have depreciated in one year. Instead of suing, one would be better off trading the defective vehicle in on a new vehicle.

I filed my appeal, pursuant to 16 CFR, part 703, on August 13, 1984. On September 24, 1984, my case was dismissed because Ford Motor Co. told the Appeals Board that I had been satisfied, a statement which was inaccurate. Upon my demand, the Board reopened my case, and rendered a decision on October 10, 1984. I was awarded a 5-year, 36,000 mile warranty. I wanted my money back. Basically, this award will allow me to continue to bring my vehicle back for repairs, continually, for the next three years; it will not cost me any money, just time and aggravation.

In addition to filing a Consumer Statement, I wrote nine letters to Ford Motor Co. and my dealer. Additionally, I made a dozen expensive phone calls, and submitted photographs to the Appeals Board.

The Bill as it now reads will provide the consumer with a greater degree of protection than now exists. I do believe that certain amendments should be made; based upon my experience these amendments are vital.

First, the dealer should be required to provide written receipts every time warranty work is performed. These receipts should specify the defect, and what work was performed. This amendment will end disputes over what work was done on a defective vehicle.

Secondly, the dealer should be jointly and severably liable under the lemon law, and not exempted. My dealer displayed no ambition to take care of my problems, and 61-4-505, MCA, actually serves as a disincentive to dealer cooperation. The consumer pays the dealer; he should not have to chase after the manufacturer for satisfaction. Being able to reach the dealer, monetarily, will do wonders in promoting consumer protection.

Finally, the "warranty period," defined at proposed 61-4-501(9), MCA, should include any period in which a vehicle is covered by the manufacturer's extended warranty. Consumers pay a lot of money for extended warrantys, and they should not be penalized by excluding nonconformities which exist during the period of time covered by an extended warranty.

Thank you for considering my opinions.



Exhibit 4
January 30, 1985
House Bill 295
Submitted by: Teri England

Montana Public Interest Research Group
729 Keith Avenue • Missoula, MT. 59801 • (406) 721-6040

TESTIMONY BEFORE THE COMMITTEE ON BUSINESS AND LABOR OF THE HOUSE
REPRESENTATIVES
JANUARY 30, 1985

Good Morning Mr. Chairman and members of the committee. My name is C.B. Pearson and I am the executive director of the Montana Public Interest Research Group (MontPIRG), a non-profit, non-partisan research and advocacy organization directed by University of Montana students. I am here to speak in favor of HB 295, the so-called "Lemon Law II".

MontPIRG was a strong proponent of the Lemon Law that passed the 1983 Legislature.

MontPIRG operates a consumer hotline which does receive inquiries from consumers about the Lemon Law. To date we have received inquiries from about 15 lemon owners. I have brought with me several letters from consumers who would have benefited from passage of the law before you today. I would like to enter these into the record and also read excerpts that I think pertinent to this bill.

The current Lemon Law was passed when only two other states had passed such a bill, now over 17 states have such legislation. Montana's Lemon Law establishes a definition of what a Lemon automobile is. It also suggests what the manufacturer should do if the automobile is determined to be a lemon. If the manufacturer is cooperative then the consumer is simply out time, taxes and other additional new car charges. Unfortunately, this is seldom the case with the consumers we had contact with. That is why we support the current bill before you.

We favor the following provisions:

- 1- extension of warranty period;
- 2- the disclosure provision in lines 2 through 8 on page 4;
- 3- collateral charges, finance charges, and incidental fees;

- 4- dealer not liable as described in lines 17 through 21 on page 6
- 5- the complete section on dispute settlement beginning on page 6
- 6- the notice for resale on lines 3 through 11 on page 9; and,
- 7- the section requiring public notice on lines 3 through 16 on page 14.

We support HB 295 and are particularly supportive of the sections we have pointed out to you. These sections would address the problems we have heard from consumers with the current Lemon Law.

I would now like to read excerpts from letters addressed to this committee from lemon owners contacted by our office.

Thank you Mr. Chairman and members of the committee for your time.

Jan. 25, 1985

Business and Labor Committee
c/o Representative Dan Harrington

To the Committee:

Please use this following testimony for enactment of House Bill 295.

In August of 1984 my wife and I purchased a 1984 Chevrolet Citation from the only Chevrolet dealer here in Billings mt. For a five month period we had continuous problems with this motor vehicle. For the last two months of Nov. and Dec. of 1984 this vehicle was totally inoperative. Here is a list of some of the overall needed repair:

Vehicle would not start

Vehicle hesitation

Vehicle engine would die out at low and highway speeds

Transmission leaked

Carburetor leaked - Gas in engine oil

Brakes froze in cold weather

Power steering did not work

Heater did not work

Air conditioning stalled out engine when engaged

Loose windshield

Electrical surges

Misc. Rattles

Window wipers did not work right

Front end out of line

The engine problems forced this vehicle to remain in our garage or in the repair shop full time for the months of Nov. & Dec. 1984, while we continued to make bank payments on the vehicle.

During this short period of time my wife and I both had full time jobs while working different shifts. We spent more time at the dealership with this vehicle than at work. The dealership refused us a loaner car. This was the only vehicle we had.

Our greatest concern was the safety of our family, we have one child. This car at numerous times died out while at intersections, interstate on-ramps, stop signs, while passing other vehicles, crosswalks, and while engaged in general. The dealership did not care at all!! They said it might be a computer control problems but they really did not know and did not offer any suggestions.

After trying all avenues at the dealership we proceeded with contacting several consumer outlets. We ended up with an attorney from Helena who specialized with the current Montana Lemon Law. The only way he suggested a win situation was to store our vehicle - pull off the registration plates and go the court route for maybe a year or so. This seemed to us as bad if not worst than having no law at all. What good is the current law? After having informed the dealership of our intent with our attorney they simply laughed in our face and said this current law was a joke and an insult to the public!

Also, behind the situation was the fact that we had bank payments on this vehicle of over \$300.00 a month plus the money inputted for registration, insurance, general maintenance, and other cash we had used on our own to rectify the vehicle's problems by a private garage! Simply wasting 4,000 dollars or so over a years time on an inoperative vehicle seemed to high a price to pay. The attorney could not ^{give} guaranty on any financial return or even a positive outcome. Again the current law seems to protect the auto dealer and or the manufacturer! A bad vehicle is a bad vehicle and can be easily proved. They have your money and you have a proved bad vehicle they don't want anything to do with.

Tori England

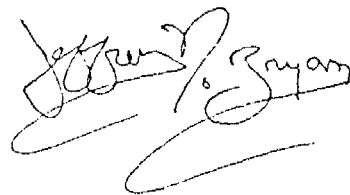
At last in early January we sold this vehicle in an AS IS condition for 3,000 dollars having paid over 11,000 new for it. Hopefully no one will now come after us! However, we had to refinance a new loan at our bank to pay off the original vehicle loan. We now have a 150 dollar loan per month on a vehicle we do not even own.

With such large amounts of money needed to purchase a new vehicle, with most Montanians having low per capita income, long distances between places, hard winters, and high fuel costs why are we not stopping this rip-off. Let's make the dealers at least somewhat human! It apparently will take God himself to straighten out the manufacturers.

In our opinion the current Montana law is worthless at best. The lawyers make money and the dealers keep saying they can fix it if it takes two or three years. Most of us take our luck, dump the bad vehicle, and buy a used one that's in better condition than the new defective one. Have you got the time, the money, the emotional stability, and does your boss at work really understand.

Please help others that will lose their shirt in the near future! Thank you

Sincerely,



Ellen K. Bryson

2724 River Oaks
Billings, Mt. 59105
406-259-8213

January 25, 1985 Submitted by:
Teri England

To Whom It May Concern:

I am writing this letter in regards to an automobile I purchased from Arnlund Auto Plaza on February 4, 1984. I have had it in the shop numerous times for various problems and defects in the car (attached are the work-orders). I realize that any car needs service done on it, but I feel that this one has needed excessive work done on it. Many things were not normal bugs to be worked out, such as a defective gas tank, gas gage, air conditioner condenser and hydraulic clutch hose to name the major ones.

I have had the car in the shop 15-20 times in the 11 months that I have owned it, and each time it took me the extra time and inconvenience of having to take it out of my way to get it to the shop and be without a vehicle for the rest of that day. On two other occasions, it was necessary to leave the car for the whole week. I then had the added expense of borrowing or renting a loaner car. (I should add that the service dept. did only charge me for the insurance on the rented car.)

What this letter is driving at is that I am concerned that I will continue to have problems with this car after the warranty period is up, and will then be charged for the repairs. I am going on record here, with this complaint about my car, to make all parties concerned aware of the problems I have had with this car and to be sure that I will have no problem getting all repairs done to my satisfaction, should I have to take the car in for any service work on any of the previously documented problems. I was assured by the Dealership that this would be the case, and I was also informed by a representative from Mont. P.I.R.G. that I have this right under the Montana "Lemon Law" provisions.

I don't think I will have any problem with the service department taking care of any further repairs, at no charge to me, if they are things that should have been taken care of in the first place. If I do, then I will have to take legal action against the Dealership.

I am sending a copy of this letter to the House Business and Labor Committee in Helena in support of HB 295 calling for a stronger "Lemon Law" in our state in hopes of avoiding problems like this in the future.

Sincerely,

Dindy A. McIntosh

CC: Rep. Dan Harrington
C.B. Pearson- Mont. P.I.R.G.
AMC Service Rep.-
Bert Arnlund Auto Plaza

[illegible]

604329

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2	CHAI
3	CHAI
4	REAL
5	SERV
6	PACH
7	INSP
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9	ROT
10	BAL
11	FRT
12	STE
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14	WIP
15	HE
16	CO
17	CO
18	EN
19	EM
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22	PC
23	FU
24	FU
25	EV
26	IN

DATE 1-8-85		VEHICLE IDENTIFICATION NUMBER 20CEN3A584B-111858		MILEAGE 10615		YEAR 85		MAKE Eagle		MODEL 3-14641		LICENSE NO.		UN.		PRICE		1		LU							
NAME Cindy McClinton				DATE IN SERVICE		WRITTEN BY		ADDITIONAL R.O.		NOT RESPONSIBLE FOR LOSS OR DAMAGE TO CARS OR ARTICLES LEFT IN CARS IN CASE OF FIRE, THEFT OR ANY OTHER CAUSE BEYOND OUR CONTROL. I hereby authorize the below repair work to be done along with the necessary materials. You and your employees may operate above vehicle for purposes of testing, inspection or delivery at my risk. You are not responsible for any delays caused by unavailability of parts or delays in parts shipments by the supplier or transporter. An express agister's lien is hereby acknowledged on above vehicle to secure the amount of repairs thereto. For value received, I agree, consent to the terms of this repair, and guarantee payment of the same. On demand, notice of nonpayment and protest waived. In the event it becomes necessary for any reason to pursue collection of this statement of any part thereof the undersigned agrees to pay all reasonable costs of collection including reasonable attorneys fees.										2		CH		IN			
ADDRESS				CITY/STATE		ZIP		CUST.		DISCLAIMER OF WARRANTIES The seller hereby expressly disclaims all warranties, either expressed or implied, including any implied warranty of merchantability or fitness for a particular purpose, and neither assumes nor authorizes any other person to assume for it any liability in connection with the sale of said products.										3		CH		FI			
PHONE				BUSINESS PHONE		ORIGINAL ESTIMATE (PARTS & LABOR) \$		ADDITIONAL REPAIRS OK'D BY X DATE		TIME		TERMS CASH X Cindy McClinton										4		FI		AX	
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1		812-3332		Dodge K.T		375								TAPE DECK & Tapes						7		IN					
1		812-3332		Dodge K.T		375								CLEAN W/HEAD CLEANER						8		IN					
1		812-3332		Dodge K.T		375								NOISE REAR WHEELS - 15						9		RC					
1		812-3332		Dodge K.T		375								NORMAL BRAKE NOISE OK						10		ST					
1		812-3332		Dodge K.T		375								Tune engine						11		ST					
1		812-3332		Dodge K.T		375								Road test						12		ST					
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1		812-3332		Dodge K.T		375								HEAD REST HAVE TO GO TO SHOP						18		FI					
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1		812-3332		Dodge K.T		375								LATER						26		FI					

DATE		VEHICLE IDENTIFICATION NUMBER												MILEAGE		YEAR		MAKE		MODEL		LICENSE NO.	
1-8-84		2CCCCN3358EB711858												9166		84		Amc		Eagle		3-124641	
NAME		Cindy McClellan												DATE IN SERVICE		2-4-84		NOT RESPONSIBLE FOR LOSS OR DAMAGE TO CARS OR ARTICLES LEFT IN CARS IN CASE OF FIRE, THEFT OR ANY OTHER CAUSE BEYOND OUR CONTROL. I hereby authorize the below repair work to be done along with the necessary materials. You and your employees may operate above vehicle for purposes of testing, inspection or delivery at any time. You are not responsible for any delays caused by unavailability of parts or delays in parts shipments by the supplier or transporter. An express agister's lien is hereby acknowledged on above vehicle to secure the amount of repairs thereto. For value received, I agree, consent to the terms of this repair, and guarantee payment of the same. Demand, notice of nonpayment and protest waived. In the event it becomes necessary for any reason to pursue collection of this statement of any part thereof the undersigned agrees to pay all reasonable costs of collection including reasonable attorneys fees.					
ADDRESS		520 miles												WRITTEN BY		Dw							
CITY/STATE		Blue Mt												ADDITIONAL R.O.									
HOME PHONE		BUSINESS PHONE		259-4120										CUST.		DISCLAIMER OF WARRANTIES The seller hereby expressly disclaims all warranties, either expressed or implied, including any implied warranty of merchantability or fitness for a particular purpose, and neither assumes nor authorizes any other person to assume for it any liability in connection with the sale of said products.							
ORIGINAL ESTIMATE (PARTS & LABOR)		\$		ADD'L REPAIRS										OK'D BY X								TIME	
AUTHORIZED REPAIRS		\$		DATE																			
TOTAL		\$																					
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QTY		PRICE	FC	UNITS	OPER
	PART NO				
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QTS	GAS, OIL & GREASE		
TOTAL GAS OIL GREASE			

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DATE	VEHICLE IDENTIFICATION NUMBER	MILEAGE	YEAR	MAKE	MODEL	LICENSE NO.
8-30-84	2CCKN3858EB711858	7688	84	AMC	Eagle	3-124641
NAME <u>Cindy McClintock</u>		DATE IN SERVICE		NOT RESPONSIBLE FOR LOSS OR DAMAGE TO CARS OR ARTICLES LEFT IN CARS IN CASE OF FIRE, THEFT OR ANY OTHER CAUSE BEYOND OUR CONTROL. I hereby authorize the below repair work to be done along with the necessary materials. You and your employees, any of our above vehicle for purposes of testing, inspection or delivery at my risk. You are not responsible for any delays caused by unavailability of parts or delays in parts shipments by the supplier or transporter. An express agister's lien is hereby acknowledged on above vehicle to secure the amount of repairs thereto. For value received, I agree, consent to the terms of this repair, and guarantee payment of the same. Demand notice of nonpayment and protest waived. In the event it becomes necessary for any reason to pursue collection of this statement of any part thereof the undersigned agrees to pay all reasonable costs of collection including reasonable attorneys fees.		
ADDRESS <u>520 N. 1st</u>		WRITTEN BY <u>PH</u>				
CITY/STATE <u>Boz, MT</u> ZIP <u>59102</u>		ADDITIONAL R.O.				
HOME PHONE	BUSINESS PHONE <u>257-4120</u>	CUST		DISCLAIMER OF WARRANTIES		
ORIGINAL ESTIMATE (PARTS & LABOR) \$		ADD'L REPAIRS OK'D BY X		The seller hereby expressly disclaims all warranties, either expressed or implied, including any implied warranty of merchantability or fitness for a particular purpose, and neither assumes nor authorizes any other person to assume for it any liability in connection with the sale of said products.		
AUTHORIZED ADD'L REPAIRS \$		DATE		TERMS CASH		
TOTAL \$		TIME		X		

CITY	PART NO.	PRICE	FC	UNITS	OPER	COMP	CAUSE	CORR	TECH
	1-52-4047	W					Replace AC Condenser		
	CONDENSER						leaks		TECH H5
	3-11-5501	W					R & R condenser		
	R & R						& lines & rebracketing		
	PART NO.		FC	UNITS	OPER	COMP	CAUSE	CORR	TECH
	DESC								
	PART NO.								
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TOTAL SUBLET REPAIRS	
SPECIAL ORDER PARTS DATE	SPECIAL ORDER PARTS NO.
OTS	GAS, OIL & GREASE
TOTAL GAS OIL GREASE	

BERT Phone 652-1430
ARNLUND
AUTO PLAZA
71 AMC-JEEP-MAZDA
CHRYSLER-PLYMOUTH
 2540 PHYLLIS LANE
 BILLINGS, MONTANA 59102

PARTS & ACCESSORIES & SERVICE SALES				
	K	ACCT NO.	SALE	K
LABOR	C			
SUBLET	C			
PARTS	C			
TIRES	C			
GAS, OIL GREASE	C			
WARRANTY DEDUCT	C			
SOURCE (10-10)				+
SOURCE (10-10)				+

UNIT	PRICE
1	LL
2	CR
3	CR
4	FR
5	CR
6	PA
7	INT
8	FR
9	HO
10	BA
11	FR
12	ST
13	INT
14	WIL
15	FR
16	CO
17	CO
18	EN
19	EM
20	AC
21	PC
22	PC
23	FR
24	FR
25	EV
26	INC

[illegible]

739 0184

DATE	VEHICLE IDENTIFICATION NUMBER	MILEAGE	YEAR	MAKE	MODEL	LICENSE NO
7-1-84	2CCCND3458E111854	1450	84	Arc	bugle	3-124641

NAME Lindy McElvann

ADDRESS 520 miles Ave

CITY/STATE Billings MT ZIP 59101

HOME PHONE 659-4120 BUSINESS PHONE 659-4120 CUST. McElvann

DATE IN SERVICE 2-1-84

WRITTEN BY JK

ADDITIONAL R.O.

NOT RESPONSIBLE FOR LOSS OR DAMAGE TO CARS OR ARTICLES LEFT IN CARS IN CASE OF FIRE, THEFT OR ANY OTHER CAUSE BEYOND OUR CONTROL.

I hereby authorize the below repair work to be done along with the necessary materials. You and your employees may operate above vehicle for purposes of testing, inspection or delivery at my risk. You are not responsible for any delays caused by unavailability of parts or delays in parts shipments by the supplier or transporter.

An express agent's lien is hereby acknowledged on above vehicle to secure the amount of repairs thereto.

For value received, I agree, consent to the terms of this repair, and guarantee payment of the same. Demand, notice of nonpayment and protest waived. In the event it becomes necessary for any reason to pursue collection of this statement of any part thereof, the undersigned agrees to pay all reasonable costs of collection including reasonable attorneys fees.

DISCLAIMER OF WARRANTIES
The seller hereby expressly disclaims all warranties, either written or implied, including any implied warranty of merchantability or fitness for a particular purpose, and neither assumes nor authorizes any other person to assume for it any liability in connection with the sale of said products.

TERMS CASH

QTY	PART NO	DESC	PRICE	FC	UNITS	OPER.	COMP	CAUSE	TECH	PRICE
1	1853	pull to right - head	16					align 2 week ago	4	
	1853	still pull right						realign 4 wheel		
		check clutch for adjust						Be soft	4	
		check A/c unit, Be						able to get colder	4	
		part are in - clutch						filler cap & hose	4	

P.O. NUMBER		SUBLET REPAIRS		SALE	
TOTAL SUBLET REPAIRS					
SPECIAL ORDER PARTS DATE		SPECIAL ORDER PARTS NO.			
Q15		GAS, OIL & GREASE			

ALBERT ARNLUND AUTO PLAZA

71 AMC-JEEP-MAZDA

CHRYSLER-PLYMOUTH

2540 PHYLLIS LANE

BILLINGS, MONTANA 59102

Phone 652-1430

PARTS & ACCESSORIES & SERVICE SALES				
	K	ACCT NO	SALE	K
LABOR	C			
SUBLET	C			
PARTS	C			
TIRES	C			
GAS, OIL, GREASE	C			
WARRANTY DEDUCT	C			

[illegible]

[illegible]

OPER. NO.	INSTR. NO.
#19	won't start - out of gas Fuel Tank said 1/4 - checked Fuel Tank Sending unit Adjust Idle adjust foot
	low in Bu DT.

[illegible][illegible]

1/23/85

Dear Montana Representatives,

I took delivery of a 1984 Jeep Cherokee from Flanagan in Missoula on June 1, 1984. The following morning when I started the vehicle I engaged the choke, following the instructions in the owners manual. The exhaust smoked and pulsed like a misfiring cylinder and the vehicle shook badly. After a minute or two the idle would smooth out and begin to operate on fast idle. The dealer told me to let it "break in". This Jeep, at idle, displayed an unusual feature from the car I turned in; when stopped at a light or stop sign, the engine idle speed would increase for a period of time and then drop back to a normal, low smooth idle. If, while at idle, the steering wheel was turned, even slightly, the engine idle speed would increase to compensate for the load on the engine. It would decrease when the steering wheel was released. It idled like this, normally, until I experienced a complete electrical system failure. After this electrical system failure, the engine idled erratically and I experienced a constant, intermittent problem with engine stalling. It would run on after the ignition was turned off.

I was driving out on logging roads and came to a turn and stopped the Jeep. The next time I started it, I heard an electrical clicking noise, a popping noise, an arcing noise and a strange smell was present, and the vehicle was dead. No lights, no horn, no radio, no nothing. After getting quite frustrated that my 10 day old Jeep had just had a major electrical malfunction, I started fiddling with the battery cables. It still wouldn't start so I started walking

to a friend's house. I remembered experiencing a similar problem with another vehicle that I had owned and I knew that the immediate problem most likely was a bad ground. I fiddled with the battery cables again, heard another clicking noise and the power was restored. The biggest mistake I made was not going back to the dealer and demanding that the contract be cancelled. I knew this electrical malfunction would be very difficult to find. The Jeep had never idled like it did before the first electrical failure and the dieseling problem became apparent after it also. There was another electrical failure, on the dealer's lot, one Sunday a few months later.

I've had problems in five major areas:

1. Fuel System; with bad choke operation, dieseling and rough idling at idle operation.
2. Electrical System Failures,
3. Transmission; grinding noises, a bad clutch, pressure plate, release bearing, and problem with the flywheel.
4. Engine oil leaks; the rear main seal and the valve cover.
5. Fit and finish defects; consisting of a defective rear door, the windshield was cracking and on a fender the paint was peeling because it did not properly adhere to the primer at the factory.

The date this Jeep was made is within the 90 day duration of the warranty in the repair facility in the 21 months I've owned it. Luckily, the dealer loaned me a vehicle for about half that time, which did minimize the inconvenience, but did not eliminate it. He did not have to loan me a vehicle either, but he did, and I was grateful.

In January 11, 1985 the service department finally went into the vehicle with the attitude of fixing it. It had recently begun an occasional, non-start situation in which the electrical system was not controlling the fuel system properly and the vehicle would not start easily and when it did, it would just turn on, the engine would not rev; then there'd be a clicking noise in the engine and it would return to it's normal, always erratic idle. They recently kept it 13 days, drove it 135 miles and replaced a number of major components. The service technician told me he found a number of things wrong. Even after all these parts were replaced it still shows signs of dieseling, runs rough on choke, though not near as rough as when I took delivery, and the non-start situation has occurred once and it still does not idle like it did before the first electrical system failure. I feel quite confident it will not ever idle like that again.

No one at the dealership could tell me anything about the procedures to follow when encountering continuing problems like these. I had to dig for any information I found. I learned of Montana Autocap and contacted them. They told me they couldn't help me because they were not sanctioned by Jeep Corporation and I'd have to contact an arbitration panel in Denver. I had no intention ^{of dealing} ~~to deal~~ with an arbitration panel based in Denver. The lawyer I spoke to in Helena said that I'd pay \$200.00 and couldn't tell me what the final figure would cost. Luckily, I'm a student here in Missoula and the Student Legal Services agreed to take the case.

I completely believe that I took delivery of a defective Jeep. It's been a constant nuisance and I cannot believe it will ever be trouble free. It never has been trouble free. It has been defective the entire warranty period; a number of major components were recently replaced at Jeep's expense out of the expressed written warranty's duration. At 15,000 miles on the odometer, I'm out of warranty, my Jeep's never been right and I'm out of warranty. If I win the Lemon Law case I will still have to pay new vehicle taxes again, which bring licensing and taxes to near \$300.00 on this vehicle. If I hadn't taken delivery of a defective vehicle I wouldn't have to pay these taxes again.

The law must be strengthened, a state sanctioned arbitration panel with enforcement capabilities set up for individuals ^{and situations} where hiring a lawyer might prove an additional, real burden. Any steps which might reduce the burden on the lemon owner must be taken. A Corporation is a faceless entity. I talked to the factory service representative and he gave me the impression that he thought I was imagining these problems. Having a lemon is a very discouraging experience. You spend your money on a new, expensive investment. You expect it to be right. If it's not you have to fight to get it fixed, and fight to get it replaced, if it can't be fixed. Vehicles that fall under the regulations of the lemon law should be replaced as soon as the defects are proven.

Sincerely,

Daniel DeFrank

Daniel DeFrank

Exhibit 7
January 30, 1985
House Bill 295
Submitted by:
Tom Harrison

AMENDMENT TO HOUSE BILL 295

Add a new Section 18 on page 14 at line 17 to read as follows:

NEW SECTION. Section 18. Non-delegable. The liabilities and obligations contained in this act may not be delegated, assigned, or assumed to or by any other person or entity whatsoever.

Remaining sections to be renumbered accordingly.

WITNESS STATEMENT

NAME ROGER TIPPY BILL NO. 215
ADDRESS Box 124 DATE 1/30/85
WHOM DO YOU REPRESENT? Mont. Beer + Wine Wholesalers Assn.
SUPPORT X OPPOSE any amendments AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: Sorry I was late.

The wholesalers and the convenience stores worked out the language of this bill during the interim. The wholesalers support it just as written but would not favor the bill with the Revenue Dept.'s proposed amendment striking "10 days"

The 10-day limit provides an objective, measurable standard which fits the duration of a typical price promotion in the beer industry. To remove this language and say anything that isn't permanent is temporary will leave the industry uncertain and at the mercy of a particular liquor inspector's whim.

Please reject the amendment.

Roger Tippy

January 28, 1985

Senator Peter R. Story
District 41
Emigrant, Montana 59027

Dear Senator Story:

I am in receipt of your letter of January 25th and I am most happy to respond to this proposed legislation.

I am reminded of a rancher who came in to my showroom not long ago: gasped, stepped backward and said "Wow! what a price!" It's legislation like this, thrust on the States by the Federal Government in the name of pre-determined consumerism that has, to some extent, triggered high prices. It is a simple matter for manufacturers to continue to raise the price to all consumers in order to satisfy claims arising from so-called warranty neglect. Our punitive damage legislation in Montana indicates the legislative liberal attitude towards consumerism. After reading HB 295 I find that this same attitude prevails, which I am sure is an extension of the Federal bill. Hopefully, HB295 won't be passed without some major toning down of items which create unfair penalties on business interests.

SUGGESTIONS

PAGE 3, LINE 5

Since most manufacturers' warranty of the complete unit, not just power train, is limited to twelve months or 12,000 miles, it would seem more sensible that the legal limitations would also remain twelve months, and then perhaps 18,000 miles to allow customers with ongoing complaint to register them with the State, but only during the twelve months period. Twelve months is simply long enough for an owner to detect an unsolved defect.

PAGE 4, LINE 11

The word "reasonable" is used. Perhaps it would be better to define that and say "a certain time period" such as six months in which five or some appropriate number of visits have been made to the dealership in an effort to correct the same defect.

PAGE 7, LINE 21 (C)

Why impair a manufacturer from studying the problem further if he is sincerely interested in correcting the problem? We must care about

the consumer while, at the same time, giving the manufacturer a chance to correct the problem. On today's vehicles some conditions occur which are difficult to isolate. The so-called "sometimes it does" and "sometimes it doesn't" defect. Owners sometimes bring their vehicles to the dealership with problems which existed yesterday and don't exist today, and are therefore impossible to find while the vehicle is functioning properly. It's not that the manufacturer doesn't have a sincere interest in curing the problem. It's just that it takes more time to isolate the exact cause.

PAGE 8, PARA. 1

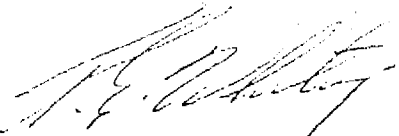
The loaner provision should be stricken from the bill. There certainly should be no legal requirement for a manufacturer to furnish an individual with a replacement vehicle while it's made available for repair. These costs are never borne by the manufacturer as there is no provision for that under the terms of the warranty. State law requires that loaners be properly licensed and insured for the rental exposure. This is a case of protecting the consumer by penalizing the dealer.

PAGE 5, LINE 14

Quote: "Nothing in this part imposes any liability on a dealer or creates a course of action by a consumer against a dealer under 61-4-503" This bill is about to create a tremendous liability and most dealers are just not set up to provide loaners.

Yours very truly,

WHITING MOTORS



T. E. (Pete) Whiting, President

February 14 1981

HB 295
page 3 of 3

STATEMENT OF INTENT

A statement of intent is required for this act because it delegates rulemaking authority to the department of commerce. The department may adopt rules governing certification and auditing of manufacturers' informal dispute settlement procedures and procedures for consumers to implement the arbitration procedures of the department. It is the intent of the legislature that in developing these rules, the department look to procedures utilized by the state of Connecticut in implementing its "Lemon Law II".

ROLL CALL

SENATE JUDICIARY

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 04/28/85

NAME	PRESENT	ABSENT	EXCUSED
Senator Chet Blaylock	X		
Senator Bob Brown	X		
Senator Bruce D. Crippen			X
Senator Jack Galt	X		
Senator R. J. "Dick" Pinsoneault	X		
Senator James Shaw	X		
Senator Thomas E. Towe	X		
Senator William P. Yellowtail, Jr.	X		
Vice Chairman Senator M. K. "Kermit" Daniels			X
Chairman Senator Joe Mazurek	X		

DATE

April 18, 1985

COMMITTEE ON

Judiciary

VISITORS' REGISTER

HB 295

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Tom Schuerfeler	MOTOR VEHICLE ALERS Assoc	295		✓
NORM PROCTOR	PACCAR INC	295	✓	
Lucille Douglas	Ford Motor Co	295		✓
Dan M. Hill	Self	295	✓	
Paul R. Brady	Self	295	✓	
ROBERT WOOD	DEPT OF COMMERCE	295	✓	
Frank Probst	Mont PIRL	295	X	
Frank Probst	Self	295	X	
Norm Wood	Mont PIRL	295		✓
Jonathan T. Kott	Reynolds & Co. witherup at hand		✓	
Carol Lander	Lobby Ed. Assoc	211-212	✓	
Bob Skidmore	Lobby Ed. Assoc	211-212	✓	
Terrence Moore	Lobby Ed. Assoc.	211-212	✓	
Diane Roberts	" " "	211-212	✓	
Janet Kenhall	Lobby Ed. Assoc.	211-212	✓	
Carol Lander	W. Virginia LISA MFA	211-212	✓	

(Please leave prepared statement with Secretary)

ROBERT F. TURNER
107 High Park Way
Missoula, MT 59803

2/20/85

Rep. Dan Harrington D-Butte.
Montana Legislature
Helena, Montana

Dear Mr. Harrington:

We read w/ interest your article on
"Lemon victims". I am sending
along a copy of my latest letter
to Gen'l. Motors.

In my opinion we have been
assaulted by the dealer & by GM.
Money that we have spent in
putting the car back together
should have been given to our
children for education.

Hoping the enclosed letter will
help you.

Sincerely,

Robert F. Turner

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 1

DATE 4-12-85

BILL NO. H.B. 295

107 High Park Way
Missoula, MT. 59803
February 18, 1985

cc to: T & W Chevrolet - Missoula, Mt.
UAW Detroit
Customer Relations - Salt Lake City
Ralph Nader - Consumer Advocate - Wn DC

General Motors Corp.
3044 West Grand Boulevard
Detroit, Michigan 48202

Sirs: REF: 1981 Citation
ID # 1GLAX 6851 B6 216676

This letter is a followup to various memos I wrote in early 1983, one year after we purchased the car new and to bring to your attention what has occurred since that time. The vehicle now has 60,000 miles on the odometer.

The following items have failed during the four year period:

Clutch @ 19,000	Heater control broke
Front axle @ 49,000	Oil leak from valve cover
Rear shocks @ 32,000	Shift knob spring broke
Brake master cylinder	Seat belt still not adjusted
Battery @ 29,000	Front end misaligned from factory
Brakes - twice	Power steering stiff when cold
Emergency Brake (numerous)	Exhaust line to emission control
Engine tune (every 4-6 mo.)	burned off
Fit of all doors (unadjustable)	Window door knob fell off
Radio speaker	Plastic gear, on shift, replaced twice
Visor fell off (\$25)	Head light switch - excessive heat on control
	Starting safety switch broken

During the Winter of 1984, brake/ lock-up causing a high velocity 360 Degree turn while going downhill at 30 MPH.

Previous to this ownership we had purchased (3) new Impala Station Wagons and (3) used Chevrolet vehicles. The Citation has cost us more money and grief than all the previous vehicles. It is hard to believe this is really happening to us.

(1 of 2)

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 1
DATE 4-12-85
BILL NO. H.B. 295

We have the following concerns:

1. Treatment by "Customer Relations", in Salt Lake City, was terrible. They accused us of mishandling the car and spent some effort in justifying all the breakdowns. They acted like a typical "hit squad".
2. We were told by T & Ws Chief Mechanic (Riech) that because of our driving habits - we live in a hilly residential area - that our clutch would fail again in the 2nd 19,000 miles (clutch, installed by another company, is still working). He also said the clutch was designed for level terrain & highway use only (What a Ridiculous statement)
3. After one year my wife called T & W asking about a trade-in. She was told they weren't interested because they still had a lot full of new Citations.
4. The materials in the car are cheaply made. The "Fisher-Body" label is a joke-as is the rest of the car. I'm happy not to be a workman forced to install such poor materials- he must realize that as soon as the car hits the road it will start to disintegrate.
5. As a long time "patriot", I wouldn't have considered purchase of a foreign made car. I and thousands of others have really learned our lesson.

In conclusion, I wish to state that if this was some other situation, it would be classed as a felony criminal action.


Robert F. Turner

(2 of 2)

SENATE JUDICIARY COM. 21
EXHIBIT NO. 1
DATE 4-12-85
BILL NO. H.B. 295

MORSE LAW FIRM
ATTORNEYS AT LAW
P. O. BOX 525 550
ABSAROOKEE, MONTANA 59001
TELEPHONE 406-328-2671
406-328-2661

February 21, 1985

WM. R. MORSE
~~MICHAEL R. MORSE~~

Representative Dan Harrington
House of Representatives
Capitol Building
Helena, Montana 59620

Dear Representative Harrington:

You may recall that I was somewhat involved in the original "lemon law" hearings. I note your appeal in the Billings Gazette for contact by other "lemon" victims in connection with the proposed revision of the current law. I also note that there has been testimony that there were only 30 known "lemons" since the Bill was originally passed. In my opinion, this figure must be horribly distorted since I have had nearly that many presented to me alone! In the past 10-days I have had three complaints and I have no hesitation in identifying them to you:

- (1) Judy Reinhardt vs. Rice Motors involving a brand new vehicle which had countless problems documented;
- (2) Janet Cross vs. Arnlund Auto Plaza involving a new Plymouth with countless documented problems;
- (3) Nina Vandersloot vs. Davey Ford Motor of Columbus with the same kind of problems.

It is my experience that the motor companies continue to stonewall these victims and unless there is a provision for payment of costs and attorney fees, these people generally don't have the funds for a fight against the giants. It would also simplify proceedings if all service could be made against a named agent, perhaps the Secretary of State. Further, it appears that federal arbitration

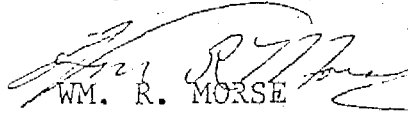
SENATE JUDICIARY COMMIT
EXHIBIT NO. 1
DATE 4-12-85
BILL NO. H.B. 295

MORSE LAW FIRM
Wm. R. Morse
February 21, 1985
Page 2

proceedings are being used as a tool of the manufacturer and the customer lacks the experience and know-how to intelligently protect himself in those proceedings; in the cases which have come to my attention those proceedings have already taken place before the customer has had occasion to approach an attorney. It may be that the Action Line Section of the Billings Gazette would be of some help to you in determining the volume of consumer complaints, as they have recently referred two to me.

Please feel free to use these remarks as you deem appropriate.

Very Sincerely,


WM. R. MORSE

WRM/lh

cc: Action Line (Billings Gazette)

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 1

DATE 04-12-85

BILL NO. H.D. 295

Representative Dan Harrington
Capital Station
Helena, Mt. 59620

MAN Bauer Jr.
1700 Valley Wind Lane
Missoula, Mont. 59801

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 1

DATE 04/12/85

BILL NO. H.B. 295

Dear Mr. Harrington—

Re: Lemon Law

In regards to your request for information, I would offer the following. I have enclosed a copy of letters sent concerning a 1983 GMC truck I purchased.

I was not aware there was any "lemon law" or I would have pursued the matter in that fashion. The letters summarize problems I had with the unit and the dealer. Since the letters, the truck has been in for several more brake problems, the engine failed when an oil cooler line broke and the radio still has not been repaired. The engine was rebuilt (I had to pay a 100 deductible?) and I have been waiting for 6 months for reimbursement for a \$155 towing bill. The unit was under warranty when the engine failed.

I sincerely hope your proposed legislation passes since I and my family have gone thru a lot of hardship and stress in trying to get the vehicle problems solved. Because of fear of brake failure, my wife and children were scared to ride in the vehicle, and my brother narrowly avoided a wreck because of the brake problem.

Maybe the public will be more aware of the law if your legislation is accepted. I wish I had known of the law, and I am sure a lot of other people are not aware of it.

Sincerely,
MAN Bauer Jr.

and the kindness of their heart, they reimbursed me \$500.00 which I accepted, being I couldn't get another car. I paid \$7550.00 cash for the car and wanted one that would last me for the rest of my life but believe that when it goes bad again it will be junked, which it was in the first place.

Sincerely,

Daisy Groshart

Daisy Groshart
Box 127

Sidney, MT 59270

Sidney Montana

Box 127

Feb. 21, 1985

Att. Rep. Dan Harrington.

You have asked other people with car problems to voice their woes to you:

In 1981 I had turned 61 and decided to buy one more new car planning on it to last me without alot of repair bills. It didn't seem to have any power so took it back to the dealer he adjusted the timing. This happen three times. Finally took it to another Ford dealer it cost \$121.00 to work on the carburetor.

(The problem was I would be out on the hi-way, maybe stopping then when I started up again the car would just died on me. I would have to raise the hood, take the air filter off pry the choke open run around and start the car.)

Was in Wyoming took it to a Ford dealer \$14.00 and it was supposed to be fixed. When I got back to Sidney, I took it to a shop \$16.00. Finally took it to a Carburetor shop. Still didn't work very good. Finally after all this time I took it to a ex-Ford mechanic who had opeded his own shopp. He tore into the motor and found a piston that had been cracked when the car was put together. I took it back to the dealer and showed his shop foreman and was told the car was off warranty and I would have to contact some one in Denver. That little repair cost me \$454.65. The car didn't do to bad until I took a trip then it started all over again. I took it back to the shop and the mechanic tore into the motor and had to replace, pistons, #2 head cost \$830.50. I finally decided to call the Detroit office and voice my grip in a letter form. They referred me to a number in Denver, which I called and out of the whole thing

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 1

DATE 04/12/85

BILL NO. H.R. 295

PACCAR Inc

Business Center Building
P.O. Box 1518
Bellevue, Washington 98009
Telephone (206) 455-7400

April 9, 1985

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 2

DATE 04 12 85

BILL NO. H.B. 295

The Honorable Joe Mazurek
Chairman, Senate Judiciary Committee
State Capital
Helena, Montana 59601

Dear Sir:

We understand that H. B. 295 has been assigned to your Committee for consideration.

PACCAR is a manufacturer of Kenworth and Peterbilt trucks, with plants located throughout the United States. We support passage of H. B. 295 as amended to exclude heavy-duty trucks, for the following reasons.

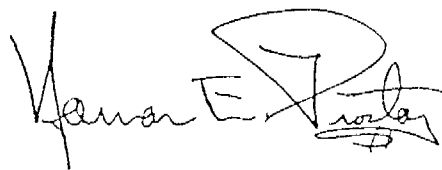
1. Assuming that repair/replace legislation is directed to the protection of the innocent consumer, it should be pointed out that the purchaser of a Class 8 vehicle is certainly more knowledgeable and in a better bargaining position than the majority of automobile purchasers. Class 8 trucks, especially Kenworths and Peterbilts, are custom vehicles for which a customer specifies the major components and configurations for that vehicle. In many cases, these trucks are bought by fleets and firms which, in reality, have equal bargaining power and product knowledge with the dealer and manufacturer. These purchasers do not need the protection of this type of legislation.
2. With both Class 8 trucks and automobiles, there are already in existence legal remedies under the Uniform Commercial Code by which the consumer can pursue the manufacturer should he have difficulty with the warranty. One has to realize that there is a distinction between the two classes of consumers. Since the heavy-duty truck purchaser uses the vehicle for his livelihood, it is more likely that he will avail himself of those legal remedies to pursue his rights. In the case of the automobile consumer, it is difficult to justify the cost of bringing a lawsuit, whereas with a truck purchaser, he will be in a position to allege consequential and incidental damages. This makes it more likely that he will avail himself of the legal remedies and find a more responsible manufacturer. Although this legislation simplifies the process of getting to the manufacturer, we believe it will encourage questionable cases to be brought and thereby will cost the manufacturer more. These costs will in turn be passed to the purchasers. There is no doubt that this legislation will increase the amount of litigation.

The Honorable Joe Mazurek
April 9, 1985
Page 2

3. Kenworth and Peterbilt, and I am sure other heavy-duty truck manufacturers, place engines in their vehicles they themselves do not manufacture or warrant. Kenworth and Peterbilt specifically exclude engines from their warranty certificates and this exclusion is agreed to by the customer. Thus, defects in the engine which are not corrected in the specified number of attempts or in the time period could require the vehicle manufacturer to replace the total vehicle for a problem with a component which it not only does not manufacture but for which it does not extend a warranty in the first place. Potentially, the truck manufacturer could be left without recourse against the engine manufacturer for the consequential damages it suffers by reason of its having purchased an allegedly defective engine. Additionally, since many truck dealers are not authorized engine service shops, they may not have the control over the servicing shops and mechanics performing the service to ensure the engine is repaired.
4. Unlike automobile owners who probably go to one dealer for repair work, truck owners have the truck serviced at numerous locations. If there is a problem with the vehicle during a trip, the owner could have the vehicle serviced three times without the manufacturer knowing there is a potential problem. Therefore, there must be at least notice to a manufacturer allowing proper opportunity to address the problem.

In summary, PACCAR urges your support of H. B. 295.

Sincerely,



Norman E. Proctor
Manager of
State Government Relations

NEP:ec



Montana Public Interest Research Group

729 Keith Avenue • Missoula, MT. 59801 • (406) 721-6040
532 N. WARREN HELENA, MT. 59601 (406)443-5155

TESTIMONY IN SUPPORT OF HB295

GOOD MORNING MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE.
MY NAME IS TERI ENGLAND AND I AM HERE ON BEHALF OF THE MONTANA
PUBLIC INTEREST RESEARCH GROUP. MONTPIRG IS A NON-PROFIT,
NON-PARTISAN RESEARCH AND ADVOCACY ORGANIZATION DIRECTED AND
FUNDED BY UNIVERSITY OF MONTANA STUDENTS. I AM HERE TO
SPEAK IN FAVOR OF HB295.

MONTPIRG OPERATES A CONSUMER HOTLINE WHICH DOES RECEIVE
INQUIRIES FROM CONSUMERS ABOUT THE LEMON LAW. TO DATE WE HAVE
RECEIVED INQUIRIES FROM ABOUT 15 LEMON OWNERS. I HAVE BROUGHT
WITH ME SEVERAL LETTERS FROM CONSUMERS WHO WOULD HAVE BENEFIT-
TED FROM PASSAGE OF THE LAW BEFORE YOU TODAY. I WOULD LIKE
TO ENTER THESE INTO THE RECORD AND ALSO READ EXCERPTS THAT I
THINK PERTINENT TO THIS BILL.

THE CURRENT LEMON LAW WAS PASSED WHEN ONLY TWO OTHER
STATES HAD PASSED SUCH A BILL, NOW OVER 17 STATES HAVE SUCH
LEGISLATION. MONTANA'S LEMON LAW ESTABLISHES A DEFINITION
OF WHAT A LEMON AUTOMOBILE IS. IT ALSO SUGGESTS WHAT THE
MANUFACTURER SHOULD DO IF THE AUTOMOBILE IS DETERMINED TO BE
A LEMON. IF THE MANUFACTURER IS COOPERATIVE THEN THE CONSUMER
IS SIMPLY OUT TIME, TAXES AND OTHER ADDITIONAL NEW CAR
CHARGES. UNFORTUNATELY, THIS IS SELDOM THE CASE WITH THE
CONSUMERS WE HAD CONTACT WITH. THAT IS WHY WE SUPPORT THE
BILL BEFORE YOU.

WE FAVOR THE FOLLOWING PROVISIONS:

- 1- EXTENSION OF WARRANTY PERIOD;
- 2- THE DISCLOSURE PROVISION IN LINES 8 THROUGH 14 ON PAGE 4;
- 3- COLLATERAL CHARGES AND INCIDENTAL FEES;
- 4- DEALER NOT LIABLE AS DESCRIBED IN SECTION 4,
SUBSECTION 2 ON PAGE 5;
- 5- SECTION 7 ON DISPUTE SETTLEMENT BEGINNING ON PAGE 6;

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 3

DATE 04 12 85

BILL NO. H.B. 295

HB295 - LEMON LAW

- 6- THE NOTICE FOR RESALE ON LINES 9 THROUGH 17 ON PAGE 9;
- 7- THE ARBITRATION PROCEDURE BEGINNING WITH SECTION 10,
ON PAGE 9.

WE SUPPORT HB295 AND ARE PARTICULARLY SUPPORTIVE OF THE SECTIONS WE HAVE POINTED OUT TO YOU. THESE SECTIONS WOULD ADDRESS THE PROBLEMS WE HAVE HEARD FROM CONSUMERS WITH THE CURRENT LEMON LAW.

I WOULD LIKE TO READ EXCERPTS FROM LETTERS ADDRESSED TO THIS COMMITTEE FROM LEMON OWNERS CONTACTED BY OUR OFFICE.

HB295 PROVIDES CONSUMERS WITH SOME RECOURSE WHEN FACED WITH A LEMON AUTOMOBILE. WE URGE YOUR SUPPORT.

THANK YOU FOR YOUR TIME AND CONSIDERATION.

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 3

DATE 04 12 85

BILL NO. H.B. 295

January 25, 1985

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 3

DATE 04 12 85

BILL NO. H.B. 295

To Whom It May Concern:

I am writing this letter in regards to an automobile I purchased from Arnlund Auto Plaza on February 4, 1984. I have had it in the shop numerous times for various problems and defects in the car (attached are the work-orders). I realize that any car needs service done on it, but I feel that this one has needed excessive work done on it. Many things were not normal bugs to be worked out, such as a defective gas tank, gas gage, air conditioner condenser and hydraulic clutch hose to name the major ones.

I have had the car in the shop 15-20 times in the 11 months that I have owned it, and each time it took me the extra time and inconvenience of having to take it out of my way to get it to the shop and be without a vehicle for the rest of that day. On two other occasions, it was necessary to leave the car for the whole week. I then had the added expense of borrowing or renting a loaner car. (I should add that the service dept. did only charge me for the insurance on the rented car.)

What this letter is driving at is that I am concerned that I will continue to have problems with this car after the warranty period is up, and will then be charged for the repairs. I am going on record here, with this complaint about my car, to make all parties concerned aware of the problems I have had with this car and to be sure that I will have no problem getting all repairs done to my satisfaction, should I have to take the car in for any service work on any of the previously documented problems. I was assured by the Dealership that this would be the case, and I was also informed by a representative from Mont. P.I.R.G. that I have this right under the Montana "Lemon Law" provisions.

I don't think I will have any problem with the service department taking care of any further repairs, at no charge to me, if they are things that should have been taken care of in the first place. If I do, then I will have to take legal action against the Dealership.

I am sending a copy of this letter to the House Business and Labor Committee in Helena in support of HB 295 calling for a stronger "Lemon Law" in our state in hopes of avoiding problems like this in the future.

Sincerely,

Dwight A. McIntock

CC: Rep. Dan Harrington
C.B. Pearson- Mont. P.I.R.G.
AMC Service Rep.-
Bert Arnlund Auto Plaza

1/28/85

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 3

DATE 04 12 85

BILL NO. H.B. 295

Dear Montana Representatives,

I took delivery of a 1984 Jeep Cherokee from Flanagan in Missoula on June 1, 1984. The following morning when I started the vehicle I engaged the choke, following the instructions in the owners manual. The exhaust smoked and pulsed like a misfiring cylinder and the vehicle shook badly. After a minute or two the idle would smooth out and begin to operate on fast idle. The dealer told me to let it break in. This Jeep, at idle, displayed an unusual feature from the car I traded in; when stopped at a light or stop sign, the engine idle speed would increase for a period of time and then drop back to a normal, low smooth idle. If, while at idle, the steering wheel were turned, even slightly, the engine idle speed would increase to compensate for the load on the engine. It would decrease when the steering wheel was released. It idled like this, normally, until I experienced a complete electrical system failure. After this electrical system failure, the engine idled erratically and I experienced a constant, intermittent problem with engine dieseling. It would run on after the ignition was turned off.

I was driving out on logging roads and came back to town and stopped the Jeep. The next time I started it, I heard an electrical clicking noise, a popping noise, an arcing noise and a strange smell was present, and the vehicle was dead. No lights, no horn, no radio no nothing. After getting quite frustrated that my 10 day old Jeep had just had a major electrical malfunction, I started fiddling with the battery cables. It still wouldn't start so I started walking

to a friend's house. I remembered experiencing a similar problem with another vehicle that I had owned and I knew that the immediate problem most likely was a bad ground. I fiddled with the battery cables again, heard another clicking noise and the power was restored. The biggest mistake I made was not going back to the dealer and demanding that the contract be cancelled. I knew this electrical malfunction would be very difficult to find. The Jeep has never idled like it did before the first electrical failure and the dieseling problem became apparent after it also. There was another electrical failure, on the dealer's lot, one Sunday a few months later.

I've had problems in five major areas:

1. Fuel System; with bad choke operation, dieseling and rough inconsistent idle operation.
2. Electrical System Failures,
3. Transmission; grinding noises, a bad clutch, pressure plate, release bearing and problem with the flywheel.
4. Engine oil leaks; the rear main seal and the valve cover.
5. Fit and finish defects; consisting of a defective rear door, the fiberglass was cracking and on a fender the paint was peeling because it did not properly adhere to the primer at the factory.

To date this Jeep has made 13 visits for a total duration of 49 days in the repair facility in the 7½ months I've owned it. Luckily, the dealer loaned me a vehicle for about half that time, which did minimize the inconvenience, but did not eliminate it. He did not have to loan me a vehicle either, but he did, and I was grateful.

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 3

DATE 04 12 85

BILL NO. H.B. 295

On January 11, 1985 the service department finally went into the vehicle with the attitude of fixing it. It had recently begun an occasional, non-start situation in which the electrical system was not controlling the fuel system properly and the vehicle would not start easily and when it did, it would just turn on, the engine would not rev; then there'd be a clicking noise in the engine and it would return to it's normal, always erratic idle. They recently kept it 13 days, drove it 135 miles and replaced a number of major components. The service technician told me he found a number of things wrong. Even after all these parts were replaced it still shows signs of dieseling, runs rough on choke, though not near as rough as when I took delivery, and the non-start situation has occurred once and it still does not idle like it did before the first electrical system failure. I feel quite confident it will not ever idle like that again.

No one at the dealership could tell me anything about the procedures to follow when encountering continuing problems like these. I had to dig for any information I found. I learned of Montana Autocap and contacted them. They told me they couldn't help me because they were not sanctioned by Jeep Corporation and I'd have to contact an arbitration panel in Denver. I had no intentions ^{of dealing} ~~to deal~~ with an arbitration panel based in Denver. The lawyer I spoke to in Helena said send him \$200.00 and couldn't tell me what the final figure would cost. Luckily, I'm a student here in Missoula and the Student Legal Services agreed to take the case.

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 3

DATE 04 12 85

BILL NO. H.B. 295

I completely believe that I took delivery of a defective Jeep. It's been a constant nuisance and I cannot believe it will ever be trouble free. It never has been trouble free. It has been defective the entire warranty period; a number of major components were recently replaced at Jeep's expense out of the expressed written warranty's duration. At 15,000 miles on the odometer, I'm out of warranty, my Jeep's never been right and I'm out of warranty. If I win the Lemon Law case I will still have to pay new vehicle taxes again, which bring licensing and taxes to near \$300.00 on this vehicle. If I hadn't taken delivery of a defective vehicle I wouldn't have to pay these taxes again.

The law must be strengthened, a state sanctioned arbitration panel with enforcement capabilities set up for individuals ^{and situations} where hiring a lawyer might prove an additional, real burden. Any steps which might reduce the burden on the lemon owner must be taken. A Corporation is a faceless entity. I talked to the factory service representative and he gave me the impression that he thought I was imagining these problems. Having a lemon is a very discouraging experience. You spend your money on a new, expensive investment. You expect it to be right.. If it's not you have to fight to get it fixed, and fight to get it replaced, if it can't be fixed. Vehicles that fall under the regulations of the lemon law should be replaced as soon as the defects are proven.

Sincerely,

Daniel DeFrank

Daniel DeFrank

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 3

DATE 04 12 85

BILL NO. H.B. 295

Jan. 25, 1985

Business and Labor Committee
c/o Representative Dan Flannington

To the Committee:

Please use this following testimony for enactment of House
Bill 295.

In August of 1984 my wife and I purchased a 1984 Chevrolet
Citation from the only Chevrolet dealer here in Billings mt. For a
five month period we had continuous problems with this motor
vehicle. For the last two months of Nov. and Dec. of 1984 this
vehicle was totally inoperative. Here is a list of some of the
overall needed repair:

Vehicle would not start

Vehicle hesitation

Vehicle engine would die out at low and highway speeds

Transmission leaked

Carburetor leaked - Gas in engine oil

Brakes froze in cold weather

Power steering did not work

Heater did not work

Air Conditioning stalled out engine when engaged

Loose windshield

Electrical surges

Misc. Rattles

Window wipers did not work right

Front end out of line

The engine problems forced this vehicle to remain in our garage or
in the repair shop / some time for the months of Nov. & Dec. 1984, while
we continued to make bank payments on the vehicle.

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 3

DATE 04 12 85

BILL NO. 11 R 105

During this short period of time my wife and I both had full time jobs while working different shifts. We spent more time at the dealership with this vehicle than at work. The dealership refused us a loaner car. This was the only vehicle we had.

Our greatest concern was the safety of our family, we have one child. This car at numerous times died out while at intersections, interstate on-ramps, stop signs, while passing other vehicles, crosswalks, and while engaged in general. The dealership did not care at all!! They said it might be a computer control problems but they really did not know and did not offer any suggestions.

After trying all avenues at the dealership we proceeded with contacting several consumer outlets. We ended up with an attorney from Helena who specialized with the current Montana Lemon Law. The only way he suggested a win situation was to store our vehicle - pull off the registration plates and go the court route for maybe a year or so. This seemed to us as bad if not worse than having no law at all. What good is the current law? After having informed the dealership of our intent with our attorney they simply laughed in our face and said this current law was a joke and an insult to the public!

Also, behind the situation was the fact that we had bank payments on this vehicle of over \$300.00 a month plus the money inputed for registration, insurance, general maintenance, and other work we had used on our own to rectify the vehicle's problems by a private garage! Simply wasting 4,000 dollars or so over a years time on an inoperative vehicle seemed to high a price to pay. The attorney could not ^{give} a guaranty on any financial return or even a positive outcome. Again the current law seems to protect the auto dealer and or the manufacturer! a bad vehicle is a bad vehicle and can be easily proved.

They have your money and you have a proved bad vehicle they don't want anything to do with.

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 3

DATE 04/22/85

11/18/2005

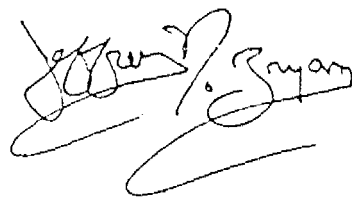
at least in early January we sold this vehicle in an as is condition for 8,000 dollars having paid over 11,000 new for it. Hopefully no one will now come after us! However, we had to refinance a new loan at our bank to pay off the original vehicle loan. We now have a 150 dollar loan per month on a vehicle we do not even own.

With such large amounts of money needed to purchase a new vehicle, with most Montanians having low per capita income, long distances between places, hard winters, and high fuel costs why are we not stopping this rip-off. Let's make the dealers at least somewhat human! It apparently will take God himself to straighten out the manufacturers.

In our opinion the current Montana law is worthless at best. The lawyers make money and the dealers keep saying they can fix it if it takes two or three years. Most of us take our lick, dump the bad vehicle, and buy a used one that is in better condition than the new defective one. Have you got the time, the money, the emotional stability, and does your boss at work really understand.

Please help others that will lose their shirt in the near future! Thank you

Sincerely,



Ellen L. Bryan

2724 River Oaks
Billings, Mt. 59105
406-259-8213

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 3
DATE 04-12-85
BILL NO. H.B. 295

AMENDMENT TO HOUSE BILL 295

1. Page 2, line 21 and line 22
Following "61-1-130."
Strike: "A truck with 10,000 pounds or more gross vehicle
weight rating,"

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 4
DATE 04 12 85
BILL NO. H.B. 295

Montana Senate Judiciary Committee
Amendments to House Bill 295
Presented by the Motor Vehicle
Manufacturers Association
April 12, 1985

Amend House Third Reading Version of House Bill 295

Amendment No. 1

On Page 3, delete lines 10 through 14.

Amendment No. 2

On Page 8, delete lines 5 through 10 .

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 5
DATE 04 12 85
BILL NO. H.B. 295



Denver District Office
Ford Parts and Service Division
Ford Motor Company

2650 East 40th Avenue
Denver, Colorado 80205
Mailing Address:
P.O. Box 5588, Terminal Annex
Denver, Colorado 80217

April 10, 1985

TO: MONTANA SENATE JUDICIARY COMMITTEE

Please be assured we are strongly motivated to satisfy our customers by us and our dealers providing excellent service to Ford owners.

We oppose this additional legislation as unnecessary, administratively burdensome, vague and confusing to the consumer, manufacturer, and dealer. Our customers have ample warranty coverage for their protection. We spend millions to retain customer satisfaction beyond the basic warranty period.

Our customers have ample resources and means to gain our attention for assistance:

- . District personnel at dealership
- . Local District Office
- . District Service Engineers
- . Technical Hotline
- . Monitored Owner Relations System
- . Ford Consumer Appeals Board
- . Litigation - Magnuson-Moss, Uniform Commercial Code

- Owners Manual
- Warranty Statement
- "Take-One" cards at dealership
- "800" number

We have intensified our administrative procedures to give priority attention to a customer reporting a problem which would fall under the interpretation of "Lemon Law."

- . Specific individual at District handles the complaint
- . Dealers have received detailed instructions and flow chart
- . Procedures to "hotline" parts put in place

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 6
DATE 04 12-85
BILL NO. H.B. 295

MONTANA SENATE JUDICIARY COMMITTEE

April 10, 1985

Page 2

Ford Motor Company intends to comply with the spirit and intent of legislation as currently enacted, most recently H.B. No. 18, effective October 1, 1983. We believe it presents new opportunities to provide high-quality automotive goods and services to our Montana customers. Ford will work closely with each Montana dealer to attain this objective.

The Ford Consumer Appeals Board "takes arbitration beyond the basic requirements of Rule 703 pertaining to products under warranty" according to an independent audit by R. K. McCreight and Associates.

Sincerely,

L. C. Douglas
Owner Relations Manager

LCD/ms

SENATE JUDICIARY COMM.

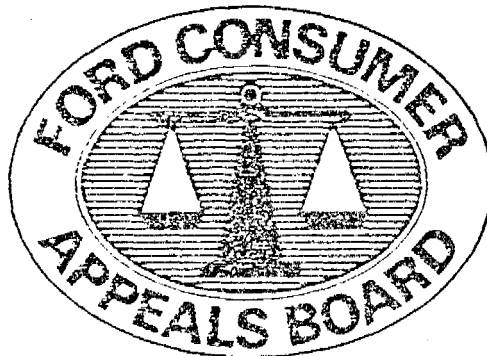
EXHIBIT NO. 6

DATE 04 12 85

BILL NO. H.B. 295

M R.K. McCREIGHT & ASSOCIATES
Marketing Research and Counsel

1984 AUDIT OF THE FCAB



AUGUST, 1984

SENATE JUDICIARY COMMIT.

EXHIBIT NO. 6

DATE 04 12 85

BILL NO. H.B. 295

EXECUTIVE SUMMARYA. Program Strengths

Ford's Board members appear to be carefully screened and well-qualified. They are, as a group, dedicated and diligent. Their motivation is unselfish. They are proud of their involvement, and, from our vantage point, they are doing an excellent job (703.3,703.4).

Ford's Executive Secretaries are playing a proper role in administering --but not guiding--the Board's efforts (703.3b).

Ford's 800 Line operators are helpful and courteous. They send FCAB Customer Statement forms out promptly on request. Forms arrive within 3 or 4 days (703.3b).

Very few people at Ford or its Dealers (12%) tried to discourage customers from using the Ford Consumer Appeals Board (703.3).

Among those who submitted an appeal, only 4% were found ineligible (703.3).

Practically all (95%) of the customers who have been through FCAB arbitration found the forms, procedures and literature easy to understand (703.3).

The design and execution of recordkeeping is outstanding. The system is sophisticated, yet the results appear to be very practical, and extremely efficient. This is a model program, clearly in compliance with Rule 703.6.

The Ford Consumer Appeals Board will process about 8,000 cases during its first year as a nation-wide program. It has been well-designed and carefully thought out. Significant funds and personnel have been set in place to administer FCAB. It has top management commitment. During the course of this Audit, the President of Ford Motor Company made a personal visit to the Milwaukee Board meeting to learn more about the process.

Ford records (supported by the customer survey in the audit) indicate that the customer comes away from arbitration with some award in about half of the cases. If decisions supporting earlier Ford Owner Relations or Dealer offers are considered, about two-thirds of all FCAB customers get at least some award (703.7).

For a new national program which required signing up over 5,000 dealers and organizing 30 Boards in 29 Districts, the result appears to be excellent overall. Our impression is that with the exceptions to be noted next, this program is in substantial compliance with the FTC Rules under the Magnuson-Moss Warranty Act, Part 703, on Informal Dispute Settlement Procedures.

V

Ford has prepared a 121 page FCAB Procedures Manual for Executive Secretaries. This comprehensive document covers the complete administration of the arbitration program, and is easy to follow. (It is being fully utilized in the field.

A final comment should be made on the plus side. The Ford Consumer Appeals Board is far more extensive in its coverage than some other dispute resolution systems, because it includes both warranty and non-warranty cases. In fact, only about three FCAB cases in ten are in warranty; the other seven involve vehicles which are no longer covered by the manufacturer's warranty.

This extended coverage is an extra benefit to Ford customers. However, it does add significantly to the workload and the decision times of the FCAB, since it takes arbitration beyond the basic requirements of Rule 703 pertaining to products under warranty. We feel that this kind of system is a definite plus for the consumer, and Ford deserves recognition for taking the initiative here.

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 6
DATE 04 12 85
BILL NO. H.B. 295

ROLL CALL

SENATE JUDICIARY

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 04/5/85

NAME	PRESENT	ABSENT	EXCUSED
Senator Chet Blaylock	X		X
Senator Bob Brown	X		
Senator Bruce D. Crippen			X
Senator Jack Galt	X		
Senator R. J. "Dick" Pinsoneault	X		
Senator James Shaw	X		
Senator Thomas E. Towe	X		
Senator William P. Yellowtail, Jr.	X		
Vice Chairman Senator M. K. "Kermit" Daniels	X		
Chairman Senator Joe Mazurek	X		

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date _____ Bill No. _____ Time _____

NAME	YES	NO
Senator Chet Blaylock	X	
Senator Bob Brown	X	
Senator Bruce D. Crippen		
Senator Jack Galt	X	
Senator R. J. "Dick" Pinsoneault	X	
Senator James Shaw		X
Senator Thomas E. Towe		X
Senator William P. Yellowtail, Jr.		X
Vice Chairman		
Senator M. K. "Kermit" Daniels	X	
Chairman		
Senator Joe Mazurek	X	
	(6)	(3)

Secretary _____

Chairman _____

Motion: Reconsider action

(include enough information on motion—put with yellow copy of committee report.)

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 4

DATE 04 15 85

BILL NO. H.B. 295

406) 363-6121

**Garlick
Helicopters, Inc.**

EXHIBIT 26
3-25-85
HB295
Harrington
TELEX. NO. 467-523

February 21, 1985

Honorable Dan Harrington
Capitol Post Office
Helena, Montana 59601

Joyce Garlick
P.O. Box 1522
Hamilton, MT 59840

Re: (Lemon Law II) House Bill

Dear Mr. Harrington:

In response to an article published in the Missoulian one of our local newspapers. I strongly support your efforts to establish a strickter and more efficient law behind the consumer. As one of the consumers who is now in a legal battle for numerous defects in a Chevrolet purchased in 1983, I feel that I have first hand experience with dealing with the manufacturers and dealers in trying to resolve any problem that I have incurred. The basic answer I seem to receive is go ahead and file suit. I have had numerous problems with the 1983 Chevy Blazer 4X4 since it was first purchased some of the problems that occured were covered under the dealers "so called warranty, but after I had put twelve thousand miles on the vehicle it was a different story. If the defects I encountered had been minor, I would have just gone and fixed them myself. Instead the transfer case started leaking at 3500 miles, this was followed by the tie-rods that keep the front end aligned being not even connected. This results in tires wearing out on the outer edges. Which by the way no warranty covers! From there I had problems like the handles on the back window falling off, (which I fixed myself), from there at 8,000 miles all the belts that run the engine just came off and to this day I still do not know where they went, I just paid for more replacements (again, not covered under warranty). I guess the final straw was when the transmission started leaking,

con't

P.O. BOX 1522 • HAMILTON, MT 59840

Rep. Dan Harrington
con't

this occured when the vehicle had 18,000 miles on it and since a major component is covered until 24,000 miles I took it back into our local dealer, at that time I was told that Chevy was having several problems with a pump that they designed for the small blazer, and that it would be taken care of; well to make a long story short this local dealer ended up trying to fix the leaking three times, the last being when the truck started smoking and throwing transmission fluid all over the highway, because of this the truck overheated.

I was then refered to the GM representative, he suggested that I take the truck to another dealer. I did and again they tried another three times to fix the transmission without any luck. After seven months of this I finally gave the vehicle back at the advise of my attorney.

I am now since November 17, 1984, still trying to resolve the matter, which will have to be in court.

I have enclosed a couple of the letter I had at hand from the dealer as to their attitude on settlement. By the way the last offer would end up with me owing the dealer an additional 1,600.00 on top of what I already have put into the truck not including the additional options I purchased outside and added on, basically you could say this has now cost me approximately 15,000.00 and I do not even have the truck, the dealer does and is driving it around and has been since I dropped it off.

I sincerely hope that this will help you in your efforts and if I may be of any further assistance, please feel free to contact me at either my business or residence numbers below.

Sincerely,


Joyce M. Garlick
Vice President

Garlick Helicopters, Inc.

Home: 821-3735
Business: 363-6121

Representative Dan Harrington
Capitol Station
Helena, Mt. 59620

MAN Bauer Jr.
1700 Valley Wind Lane
Missoula, Mt. 59801

Dear Mr. Harrington—

Re: Lemon Law

In regards to your request for information, I would offer the following. I have enclosed a copy of letters sent concerning a 1983 GMC truck I purchased.

I was not aware there was any "lemon law" or I would have pursued the matter in that fashion. The letters summarize problems I had with the unit and the dealer. Since the letters, the truck has been in for several more brake problems, the engine failed when an oil cooler line broke and the radio still has not been repaired. The engine was rebuilt (I had to pay a 100 deductible?) and I have been waiting for 6 months for reimbursement for a \$155 towing bill. The unit was under warranty when the engine failed.

I sincerely hope your proposed legislation passes since I and my family have gone thru a lot of hardship and stress in trying to get the vehicle problems solved. Because of fear of brake failure, my wife and children were scared to ride in the vehicle, and my brother narrowly avoided a wreck because of the brake problem.

Maybe the public will be more aware of the law if your legislation is accepted. I wish I had known of the law, and I am sure a lot of other people are not aware of it.

Sincerely,
MAN Bauer Jr.

and the kindness of their heart, they reimbursed me \$500.00 which I accepted, being I couldn't get another car. I paid \$7550.00 cash for the car and wanted one that would last me for the rest of my life but believe that when it goes bad again it will be junked, which it was in the first place.

Sincerely,

Daisy Groshart

Daisy Groshart

Box 127

Sidney, MT 59270

Sidney, Montana

Box 127

Feb. 21, 1983

Att. Rep. Dan Harrington.

You have asked other people with car problems to voice their woes to you:

In 1981 I had turned 61 and decided to buy one more new car planning on it to last me without alot of repair bills.

It didn't seem to have any power so took it back to the dealer he adjusted the timing. This happen three times. Finally took it to another Ford dealer it cost \$121.00 to work on the carburetor.

(The problem was I would be out on the hi-way, maybe stopping then when I started up again the car would just died on me. I would have to raise the hood, take the air filter off pry the choke open run around and start the car.)

Was in Wyoming took it to a Ford dealer \$14.00 and was supposed to be fixed. When I got back to Sidney, I took it to a shop \$16.00/Finally took it to a Carburetor shop. Still didn't work very good. Finally after all this time I took it to a ex-Ford mechanic who had opeded his own shopp. He tore into the motor and found a piston that had been cracked when the car was put together. I took it back to the dealer and showed his shop foreman and was told the car was off warranty and I would have to contact some one in Denver. That little repair cost me \$454.65. The car didn't do to bad until I took a trip then it started all over again. I took it back to the shop and the mechanic tore into the motor and had to replace, pistons, #2 head cost \$830.50. I finally decided to call the Detroit office and voice my grip in a letter form. They referred me to a number in Denver, which I called and out of the whole thing

MORSE LAW FIRM

ATTORNEYS AT LAW

P. O. BOX 525 550

ABSAROOKEE, MONTANA 59001

TELEPHONE 406-328-2671
406-328-2661

February 21, 1985

WM. R. MORSE

~~MICHAEL K. MORSE~~

Representative Dan Harrington
House of Representatives
Capitol Building
Helena, Montana 59620

Dear Representative Harrington:

You may recall that I was somewhat involved in the original "lemon law" hearings. I note your appeal in the Billings Gazette for contact by other "lemon" victims in connection with the proposed revision of the current law. I also note that there has been testimony that there were only 30 known "lemons" since the Bill was originally passed. In my opinion, this figure must be horribly distorted since I have had nearly that many presented to me alone! In the past 10-days I have had three complaints and I have no hesitation in identifying them to you:

(1) Judy Reinhardt vs. Rice Motors involving a brand new vehicle which had countless problems documented;

(2) Janet Cross vs. Arnlund Auto Plaza involving a new Plymouth with countless documented problems;

(3) Nina Vandersloot vs. Davey Ford Motor of Columbus with the same kind of problems.

It is my experience that the motor companies continue to stonewall these victims and unless there is a provision for payment of costs and attorney fees, these people generally don't have the funds for a fight against the giants. It would also simplify proceedings if all service could be made against a named agent, perhaps the Secretary of State. Further, it appears that federal arbitration

MORSE LAW FIRM
Wm. R. Morse
February 21, 1985
Page 2

proceedings are being used as a tool of the manufacturer and the customer lacks the experience and know-how to intelligently protect himself in those proceedings; in the cases which have come to my attention those proceedings have already taken place before the customer has had occasion to approach an attorney. It may be that the Action Line Section of the Billings Gazette would be of some help to you in determining the volume of consumer complaints, as they have recently referred two to me.

Please feel free to use these remarks as you deem appropriate.

Very Sincerely,


WM. R. MORSE

WRM/lh

cc: Action Line (Billings Gazette)

ROBERT F. TURNER
107 High Park Way
Missoula, MT 59803

2/20/85

Rep. Dan Harrington D-Butte.
Montana Legislature
Helena, Montana

Dear Mr. Harrington:

We read w/ interest your article on
"lemon victims". I am sending
along a copy of my latest letter
to Gen'l. Motors.

In my opinion we have been
assaulted by the dealer & by GM.
Money that we have spent in
putting the car back together
should have been given to our
children for education.

Hoping the enclosed letter will
help you.

Sincerely
Robert F. Turner

107 High Park Way
Missoula, MT. 59803
February 18, 1985

cc to: T & W Chevrolet - Missoula, Mt.
UAW Detroit
Customer Relations - Salt Lake City
Ralph Nader - Consumer Advocate - Wm DC

General Motors Corp.
3044 West Grand Boulevard
Detroit, Michigan 48202

Sirs: REF: 1981 Citation
ID # 1GLAX 6851 B6 216676

This letter is a followup to various memos I wrote in early 1983, one year after we purchased the car new and to bring to your attention what has occurred since that time. The vehicle now has 60,000 miles on the odometer.

The following items have failed during the four year period:

Clutch @ 19,000	Heater control broke
Front axle @ 49,000	Oil leak from valve cover
Rear shocks @ 32,000	Shift knob spring broke
Brake master cylinder	Seat belt still not adjusted
Battery @ 29,000	Front end misaligned from factory
Brakes - twice	Power steering stiff when cold
Emergency Brake (numerous)	Exhaust line to emission control
Engine tune (every 4-6 mo.)	burned off
Fit of all doors (unadjustable)	Window door knob fell off
Radio speaker	Plastic gear, on shift, replaced twice
Visor fell off (\$25)	Head light switch - excessive heat on control
	Starting safety switch broken

During the Winter of 1984, brake/ lock-up causing a high velocity 360 Degree turn while going downhill at 30 MPH.

Previous to this ownership we had purchased (3) new Impala Station Wagons and (3) used Chevrolet vehicles. The Citation has cost us more money and grief than all the previous vehicles. It is hard to believe this is really happening to us.

We have the following concerns:

1. Treatment by "Customer Relations", in Salt Lake City, was terrible. They accused us of mishandling the car and spent some effort in justifying all the breakdowns. They acted like a typical "hit squad".
2. We were told by T & Ws Chief Mechanic (Riech) that because of our driving habits - we live in a hilly residential area - that our clutch would fail again in the 2nd 19,000 miles (clutch, installed by another company, is still working). He also said the clutch was designed for level terrain & highway use only (What a Ridiculous statement)
3. After one year my wife called T & W asking about a trade-in. She was told they weren't interested because they still had a lot full of new Citations.
4. The materials in the car are cheaply made. The "Fisher-Body" label is a joke-as is the rest of the car. I'm happy not to be a workman forced to install such poor materials- he must realize that as soon as the car hits the road it will start to disintegrate.
5. As a long time "patriot", I wouldn't have considered purchase of a foreign made car. I and thousands of others have really learned our lesson.

In conclusion, I wish to state that if this was some other situation, it would be classed as a felony criminal action.


Robert F. Turner

TESTIMONY ON HB 295

EXHIBIT 27
3-25-85
HB295
Reneau-Fay

By

Corrinne Reneau-Fay

I SPEAK AS A CONCERNED CITIZEN REGARDING THE^{LACK OF} FAIRNESS OF BATTLES PITTING MAJOR CAR MANUFACTURERS AGAINST THE AVERAGE CONSUMER. I AM CURRENTLY INVOLVED IN SUCH AN ISSUE WITH THE DODGE CORPORATION AND CAN TELL YOU IT DOES NOT MAKE IT EASIER WITH A WARRANTY AS THE DIFFICULTIES AND OBSTACLES ARE STILL IN YOUR PATH. I DO NOT HAVE A LARGE CIRCLE OF FRIENDS, BUT I PERSONALLY KNOW OF TWO CASES WHERE NEW CARS ARE FALLING APART AND CAUSING HEADACHES FOR THE PEOPLE WHO PURCHASED THEM. IN MY JOB HERE AT THE LEGISLATURE I HAVE SPOKEN WITH MANY PEOPLE AROUND THE STATE WHO HAVE HORRIBLE STORIES OF TRANSMISSIONS AND ENGINES GOING OUT, PAYING FOR THE REPAIRS OUT OF THEIR OWN POCKETS, AND THEN NOT GETTING REIMBURSED FOR THE COSTS FROM THE MANUFACTURER. WHY SHOULDN'T A MANUFACTURER STAND BEHIND A DEFECTIVE \$15,000 OR \$20,000 ITEM WHEN ANY RETAILER WILL GLADLY TAKE BACK A DEFECTIVE 59 CENT ITEM? WITH PASSAGE OF THIS BILL, THE CONSUMER WILL HAVE A PLACE TO START THE LONG TASK OF DEALING WITH THE HEARTBREAK OF PURCHASING AN EXPENSIVE ITEM THAT WAS NOT BUILT RIGHT. A LOT OF PEOPLE HERE IN THIS STATE ARE TRYING TO FIGHT THIS BATTLE ALONE - THEY DO NOT HAVE A PLACE TO SEEK ADVISE OR SOMEONE TO ACT AS AN ADVOCATE FOR THEM. I REALIZE YOU HAVE A LOT OF APPROPRIATION DECISIONS, BUT THIS ONE IS SMALL IN RELATION TO THE GOOD IT WILL DO THE CONSUMER WHO HAS NO PROTECTION.



EXHIBIT 28
3-25-85
HB295
DalSaoglia

Montana Public Interest Research Group

729 Keith Avenue • Missoula, MT. 59801 • (406) 721-6040
532 NORTH WARREN HELENA, MT 59601 406-443-5155

TESTIMONY BEFORE THE COMMITTEE ON

BUSINESS AND LABOR OF THE

HOUSE OF REPRESENTATIVES

MARCH 25, 1985

GOOD EVENING MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE. MY NAME IS JULIE DALSOGLIO AND I AM HERE TODAY ON BEHALF OF THE MONTANA PUBLIC INTEREST RESEARCH GROUP (MONTPIRG), A NON-PROFIT, NON-PARTISAN RESEARCH AND ADVOCACY ORGANIZATION DIRECTED BY UNIVERSITY OF MONTANA STUDENTS. I AM HERE TO SPEAK IN FAVOR OF HOUSE BILL 295, MONTANA'S "LEMON LAW II."

MONTPIRG WAS A STRONG PROPONENT OF THE LEMON LAW THAT PASSED THE 1983 LEGISLATURE.

MONTPIRG OPERATES A CONSUMER HOTLINE WHICH DOES RECEIVE INQUIRIES FROM CONSUMERS ABOUT THE LEMON LAW. TO DATE WE HAVE RECEIVED INQUIRIES FROM ABOUT 15 LEMON OWNERS. I HAVE BROUGHT WITH ME SEVERAL LETTERS FROM CONSUMERS WHO WOULD HAVE BENEFITTED FROM PASSAGE OF THE LAW BEFORE YOU TODAY. I WOULD LIKE TO ENTER THESE INTO THE RECORD AND ALSO READ EXCERPTS THAT I THINK PERTINENT TO THIS BILL.

THE CURRENT LEMON LAW WAS PASSED WHEN ONLY TWO OTHER STATES HAD PASSED SUCH A BILL, NOW OVER 17 STATES HAVE SUCH LEGISLATION. MONTANA'S LEMON LAW ESTABLISHES A DEFINITION OF WHAT A LEMON AUTOMOBILE IS. IT ALSO SUGGESTS WHAT THE MANUFACTURER SHOULD DO IF THE AUTOMOBILE IS DETERMINED TO BE A LEMON. IF THE MANUFACTURER IS COOPERATIVE THEN THE CONSUMER IS SIMPLY OUT TIME, TAXES AND OTHER ADDITIONAL NEW CAR CHARGES. UNFORTUNATELY, THIS IS SELDOM THE CASE WITH THE CONSUMERS WE HAD CONTACT WITH. THAT IS WHY WE SUPPORT THE CURRENT BILL BEFORE YOU.

WE FAVOR THE FOLLOWING PROVISIONS:

- 1- EXTENSION OF WARRANTY PERIOD;
- 2- THE DISCLOSURE PROVISION IN LINES 7 THROUGH 13 ON PAGE 4;

- 3- COLLATERAL CHARGES AND INCIDENTAL FEES;
- 4- DEALER NOT LIABLE AS DESCRIBED IN LINES 17 THROUGH 21 ON PAGE 5;
- 5- SECTION 7 ON DISPUTE SETTLEMENT BEGINNING ON PAGE 6;
- 6- THE NOTICE FOR RESALE ON LINES 8 THROUGH 16 ON PAGE 9.

WE SUPPORT HB 295 AND ARE PARTICULARLY SUPPORTIVE OF THE SECTIONS WE HAVE POINTED OUT TO YOU. THESE SECTIONS WOULD ADDRESS THE PROBLEMS WE HAVE HEARD FROM CONSUMERS WITH THE CURRENT LEMON LAW.

I WOULD NOW LIKE TO READ EXCERPTS FROM LETTERS ADDRESSED TO THIS COMMITTEE FROM LEMON OWNERS CONTACTED BY OUR OFFICE.

THANK YOU MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE FOR YOUR TIME.

January 25, 1985

To Whom It May Concern:

I am writing this letter in regards to an automobile I purchased from Arnlund Auto Plaza on February 4, 1984. I have had it in the shop numerous times for various problems and defects in the car (attached are the work-orders). I realize that any car needs service done on it, but I feel that this one has needed excessive work done on it. Many things were not normal bugs to be worked out, such as a defective gas tank, gas gage, air conditioner condenser and hydraulic clutch hose to name the major ones.

I have had the car in the shop 15-20 times in the 11 months that I have owned it, and each time it took me the extra time and inconvenience of having to take it out of my way to get it to the shop and be without a vehicle for the rest of that day. On two other occasions, it was necessary to leave the car for the whole week. I then had the added expense of borrowing or renting a loaner car. (I should add that the service dept. did only charge me for the insurance on the rented car.)

What this letter is driving at is that I am concerned that I will continue to have problems with this car after the warranty period is up, and will then be charged for the repairs. I am going on record here, with this complaint about my car, to make all parties concerned aware of the problems I have had with this car and to be sure that I will have no problem getting all repairs done to my satisfaction, should I have to take the car in for any service work on any of the previously documented problems. I was assured by the Dealership that this would be the case, and I was also informed by a representative from Mont. P.I.R.G. that I have this right under the Montana "Lemon Law" provisions.

I don't think I will have any problem with the service department taking care of any further repairs, at no charge to me, if they are things that should have been taken care of in the first place. If I do, then I will have to take legal action against the Dealership.

I am sending a copy of this letter to the House Business and Labor Committee in Helena in support of HB 295 calling for a stronger "Lemon Law" in our state in hopes of avoiding problems like this in the future.

Sincerely,

Daisy A. McIntock

CC: Rep. Dan Harrington
C.B. Pearson- Mont. P.I.R.G.
AMC Service Rep.-
Bert Arnlund Auto Plaza

1/29/85

Dear Montana Representatives,

I took delivery of a 1984 Jeep Cherokee from Planagans in Missoula on June 1, 1984. The following morning when I started the vehicle I engaged the choke, following the instructions in the owners manual. The exhaust smoked and pulsed like a misfiring cylinder and the vehicle shook badly. After a minute or two the idle would smooth out and begin to operate on fast idle. The dealer told me to let it break in. This Jeep, at idle, displayed an unusual feature from the car I traded in; when stopped at a light or stop sign, the engine idle speed would increase for a period of time and then drop back to a normal, low smooth idle. If, while at idle, the steering wheel were turned, even slightly, the engine idle speed would increase to compensate for the load on the engine. It would decrease when the steering wheel was released. It idled like this, normally, until I experienced a complete electrical system failure. After this electrical system failure, the engine idled erratically and I experienced a constant, intermittent problem with engine dieseling. It would run on after the ignition was turned off.

I was driving out on logging roads and came back to town and stopped the Jeep. The next time I started it, I heard an electrical clicking noise, a popping noise, an arcing noise and a strange smell was present, and the vehicle was dead. No lights, no horn, no radio, no nothing. After getting quite frustrated that my 10 day old Jeep had just had a major electrical malfunction, I started fiddling with the battery cables. It still wouldn't start so I started walking

to a friend's house. I remembered experiencing a similar problem with another vehicle that I had owned and I knew that the immediate problem most likely was a bad ground. I fiddled with the battery cables again, heard another clicking noise and the power was restored. The biggest mistake I made was not going back to the dealer and demanding that the contract be cancelled. I knew this electrical malfunction would be very difficult to find. The Jeep has never idled like it did before the first electrical failure and the dieseling problem became apparent after it also. There was another electrical failure, on the dealer's lot, one Sunday a few months later.

I've had problems in five major areas:

1. Fuel System; with bad choke operation, dieseling and rough inconsistent idle operation.
2. Electrical System Failures,
3. Transmission; grinding noises, a bad clutch, pressure plate, release bearing and problem with the flywheel.
4. Engine oil leaks; the rear main seal and the valve cover.
5. Fit and finish defects; consisting of a defective rear door, the fiberglass was cracking and on a fender the paint was peeling because it did not properly adhere to the primer at the factory.

To date this Jeep has made 13 visits for a total duration of 49 days in the repair facility in the 7½ months I've owned it. Luckily, the dealer loaned me a vehicle for about half that time, which did minimize the inconvenience, but did not eliminate it. He did not have to loan me a vehicle either, but he did, and I was grateful.

On January 11, 1985 the service department finally went into the vehicle with the attitude of fixing it. It had recently begun an occasional, non-start situation in which the electrical system was not controlling the fuel system properly and the vehicle would not start easily and when it did, it would just turn on, the engine would not rev; then there'd be a clicking noise in the engine and it would return to it's normal, always erratic idle. They recently kept it 13 days, drove it 135 miles and replaced a number of major components. The service technician told me he found a number of things wrong. Even after all these parts were replaced it still shows signs of dieseling, runs rough on choke, though not near as rough as when I took delivery, and the non-start situation has occurred once and it still does not idle like it did before the first electrical system failure. I feel quite confident it will not ever idle like that again.

No one at the dealership could tell me anything about the procedures to follow when encountering continuing problems like these. I had to dig for any information I found. I learned of Montana Autocap and contacted them. They told me they couldn't help me because they were not sanctioned by Jeep Corporation and I'd have to contact an arbitration panel in Denver. I had no intentions ^{of dealing} ~~to deal~~ with an arbitration panel based in Denver. The lawyer I spoke to in Helena said send him \$200.00 and couldn't tell me what the final figure would cost. Luckily, I'm a student here in Missoula and the Student Legal Services agreed to take the case.

I completely believe that I took delivery of a defective Jeep. It's been a constant nuisance and I cannot believe it will ever be trouble free. It never has been trouble free. It has been defective the entire warranty period; a number of major components were recently replaced at Jeep's expense out of the expressed written warranty's duration. At 15,000 miles on the odometer, I'm out of warranty, my Jeep's never been right and I'm out of warranty. If I win the Lemon Law case I will still have to pay new vehicle taxes again, which bring licensing and taxes to near \$300.00 on this vehicle. If I hadn't taken delivery of a defective vehicle I wouldn't have to pay these taxes again.

The law must be strengthened, a state sanctioned arbitration panel with enforcement capabilities set up for individuals ^{and situations} where hiring a lawyer might prove an additional, real burden. Any steps which might reduce the burden on the lemon owner must be taken. A Corporation is a faceless entity. I talked to the factory service representative and he gave me the impression that he thought I was imagining these problems. Having a lemon is a very discouraging experience. You spend your money on a new, expensive investment. You expect it to be right. If it's not you have to fight to get it fixed, and fight to get it replaced, if it can't be fixed. Vehicles that fall under the regulations of the lemon law should be replaced as soon as the defects are proven.

Sincerely,

Daniel DeFrank

Daniel DeFrank

Jan. 25, 1985

Business and Labor Committee
c/o Representative Dan Harrington

To the Committee:

Please use this following testimony for enactment of House Bill 295.

In August of 1984 my wife and I purchased a 1984 Chevrolet Citation from the only Chevrolet dealer here in Billings mt. For a five month period we had continuous problems with this motor vehicle. For the last two months of Nov. and Dec. of 1984 this vehicle was totally inoperative. Here is a list of some of the overall needed repair:

Vehicle would not start

Vehicle hesitation

Vehicle engine would die out at low and highway speeds

Transmission leaked

Carburetor leaked - Gas in engine oil

Brakes froze in cold weather

Power steering did not work

Heater did not work

Air Conditioning stalled out engine when engaged

Loose windshield

Electrical surges

Misc. Rattles

Window wipers did not work right

Front end out of line

The engine problems forced this vehicle to remain in our garage or in the repair shop full time for the months of Nov. & Dec. 1984, while we continued to make bank payments on the vehicle.

During this short period of time my wife and I both had full time jobs while working different shifts. We spent more time at the dealership with this vehicle than at work. The dealership refused us a loaner car. This was the only vehicle we had.

Our greatest concern was the safety of our family, we have one child. This car at numerous times died out while at intersections, interstate on-ramps, stop signs, while passing other vehicles, crosswalks, and while engaged in general. The dealership did not care at all!! They said it might be a computer control problem but they really did not know and did not offer any suggestions.

After trying all avenues at the dealership we proceeded with contacting several consumer outlets. We ended up with an attorney from Helena who specialized with the current Montana Lemon Law. The only way he suggested a win situation was to store our vehicle - pull off the registration plates and go the court route for maybe a year or so. This seemed to us as bad if not worst than having no law at all. What good is the current law? After having informed the dealership of our intent with our attorney they simply laughed in our face and said this current law was a joke and an insult to the public!

Also, behind the situation was the fact that we had bank payments on this vehicle of over \$300.00 a month plus the money inputted for registration, insurance, general maintenance, and other cash we had used on our own to rectify the vehicle's problems by a private garage! Simply wasting 4,000 dollars or so over a years time on an inoperative vehicle seemed to high a price to pay. The attorney could not give a warranty on any financial return or even a positive outcome. Again the current law seems to protect the auto dealer and or the manufacturer! A bad vehicle is a bad vehicle and can be easily proved. They have your money and you have a proved bad vehicle they don't want anything to do with.

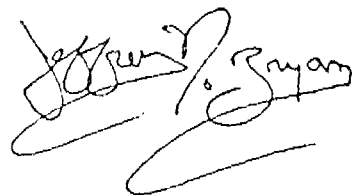
at last in early January we sold this vehicle in an as is condition for 8,000 dollars having paid over 11,000 new for it. Hopefully no one will now come after us! However, we had to refinance a new loan at our bank to pay off the original vehicle loan. We now have a 150 dollar loan per month on a vehicle we do not even own.

With such large amounts of money needed to purchase a new vehicle, with most Montanians having low per capita income, long distances between places, hard winters, and high fuel costs why are we not stopping this rip-off. Let's make the dealers at least somewhat human! It apparently will take God himself to straighten out the manufacturers.

In our opinion the current Montana law is worthless at best. The lawyers make money and the dealers keep saying they can fix it if it takes two or three years. Most of us take our lick, dump the bad vehicle, and buy a used one that's in better condition than the new defective one. Have you got the time, the money, the emotional stability, and does your boss at work really understand.

Please help others that will lose their shirt in the near future! Thank you

Sincerely,



Ellen L. Bryan

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406-259-8213